

Public Hearing Notices

Ordinance 15-09 -

An Ordinance Authorizing Pursuant to Chapter 44 of Title 12, SC Code of Laws, 1976, as Amended, the Execution and Delivery of the Fee Agreement Between Lexington County, SC and Gaston Solar I, LLC, Along with its Affiliates and Related Entities as Sponsor, and One or More Sponsor Affiliates to Provide for a Fee in Lieu of Ad Valorem Taxes Incentive and Certain Special Source Revenue Credits; and Matters Relating Thereto

Ordinance 15-10 -

An Ordinance Authorizing Pursuant to Chapter 44 of Title 12, SC Code of Laws, 1976, as Amended, the Execution and Delivery of the Fee Agreement Between Lexington County, SC and Gaston Solar II, LLC, Along with its Affiliates and Related Entities as Sponsor, and One or More Sponsor Affiliates to Provide for a Fee in Lieu of Ad Valorem Taxes Incentive and Certain Special Source Revenue Credits; and Matters Relating Thereto

Ordinance 05-11 -

An Ordinance Authorizing the Execution and Delivery of One or More Incentive Agreements by and Among Lexington County, SC, and OMP Mechtron, LLC, and One or More Existing or To-be-Formed or Acquired Subsidiaries, or Affiliated or Related Entities, to Provide for Special Source Revenue Credits; Authorizing the Expansion or the Joint County Industrial and Business Park Formed with Calhoun County to Include the Project; to Provide for the Addition of One or More Project Affiliates; and Other Matters Related Thereto

Ordinance 15-12 -

An Ordinance Authorizing Pursuant to Chapter 44, SC Codes of Laws, 1976, as Amended, the Execution and Delivery of a Fee Agreement Between Lexington, SC and UP Worldwide Forwarding, Inc.; and Matters Relating Thereto

Ordinance 15-13 -

An Ordinance to Amend that Certain Agreement for the Development of a Joint Industrial and Business Park Between Lexington County and Calhoun County Dated to be Effective on or About December 11, 1995, to add United Parcel Service Tract

ORDINANCE 15-09

AN ORDINANCE AUTHORIZING PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA AND GASTON SOLAR I, LLC, ALONG WITH ITS AFFILIATES AND RELATED ENTITIES AS SPONSOR, AND ONE OR MORE SPONSOR AFFILIATES TO PROVIDE FOR A FEE-IN-LIEU OF AD VALOREM TAXES INCENTIVE AND CERTAIN SPECIAL SOURCE REVENUE CREDITS; AND MATTERS RELATING THERETO.

WHEREAS, Lexington County (the “County”), a public body corporate and politic under the laws of the State of South Carolina has, by an Inducement Resolution adopted on July 28, 2015 (the “Resolution”), taken official action to identify the project (as defined below) for purposes of applicable fee-in-lieu of taxes statutes and otherwise;

WHEREAS, the County desires to enter into a fee agreement (the “Fee Agreement”), attached hereto as Exhibit A, Gaston Solar I, LLC (the “Company”), which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976 (the “Code”), as amended (the “Act”) and the provision of Special Source Revenue Credits, as authorized pursuant to Sections 4-1-175, 4-29-68 and 12-44-70 of the Code (collectively, the “Infrastructure Credit Act”) and as further described in the Fee Agreement;

WHEREAS, the County and the Company desire to enter into a Fee Agreement concerning the establishment of a facility in the County which will consist of certain real and personal property including all equipment, furnishings and other personal property required by the Company and any and all activities relating thereto (which properties constitute a project as defined under the Act and are referred to herein as the “Project”). The Project is expected to provide significant economic benefits to the County and surrounding areas. In order to induce the Company to locate the Project in the County, the County has agreed to charge a fee-in-lieu of taxes and provide Special Source Revenue Credits with respect to the Project and otherwise make available to the Company, and any approved Sponsors Affiliates who join as a part to the Fee Agreement, the benefits intended by the Act and the Infrastructure Credit Act, the specific terms of which are all set forth in the Fee Agreement;

WHEREAS, Lexington County Council (the “County Council”) has caused to be prepared and presented to the County Council the Fee Agreement between the County and the Company, which the County shall execute and deliver;

WHEREAS, it appears that the documents above referred to are appropriate instruments to be executed and delivered or approved by the County for the purposes intended; and

WHEREAS, [insert Sponsor Affiliate I name], and [insert Sponsor Affiliate II name] (“Sponsor Affiliates”) (a) intend to participate in the investment under the Fee Agreement; and (b) will execute with the Company a Joinder Agreement, in a form attached to the Fee Agreement as Exhibit B , and therefore wish to be approved by the County as Sponsor Affiliates, pursuant to Section 12-44-10 of the Act and as further defined in the Fee Agreement.

NOW, THEREFORE, BE IT ORDAINED by the County Council in meeting duly assembled as follows:

Section 1. Pursuant to the Act and particularly Section 12-44-40(H) and (I) thereof, the County Council has made and hereby makes the following findings:

(a) The Project constitutes a “project” as said term is referred to and defined in Section 12-44-30 of the Act;

(b) It is anticipated that the Project will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes;

(d) It is anticipated that the cost of planning, designing, acquiring, constructing and completing the Project will require expenditures that satisfy the minimum investment required under the Act;

(e) The benefits of the Project to the public are greater than the costs to the public;

(f) Neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; and

(g) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

Section 2. In order to promote industry, develop trade and utilize the manpower, agricultural products and natural resources of the State, the form, terms and provisions of the Fee Agreement which is attached hereto and shall be executed and filed with the Clerk to County Council and which comply with the terms of the aforementioned Inducement Resolution are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chair of County Council and the Clerk to County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement to the Company and any Sponsor Affiliate.

Section 3. The County approves the Sponsor Affiliates and their participation in the Fee Agreement as Sponsor Affiliates as contemplated under the Act and the Fee Agreement.

Section 4. The Chair of County Council and the Clerk to County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement in a form substantially identical to the terms contemplated herein and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 5. The consummation of all transactions contemplated by the Fee Agreement are hereby approved.

Section 6. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 8. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

DONE, RATIFIED AND ADOPTED this _____ day of _____, 2015.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat
Chair of Lexington County Council

ATTEST:

By: _____
Diana W. Burnett
Clerk to Lexington County Council

First Reading: July 28, 2015
Second Reading: August 25, 2015
Public Hearing: August 25, 2015
Third Reading: September 22, 2015

Exhibit A

Fee Agreement

[See Attached]

**FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT
BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA
AND
GASTON SOLAR I, LLC**

**DATED AS OF
_____, 2015**

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Exhibit A - Property Description

Exhibit B – Form of Joinder Agreement

FEE AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT ("Fee Agreement") is made and entered into as of [INSERT DATE], 2015, by and between Lexington County, South Carolina ("County"), a body politic and corporate and a political subdivision of the State of South Carolina ("State"), acting by and through the Lexington County Council ("County Council") as the governing body of the County, Gaston Solar I, LLC, a South Carolina limited liability company, authorized to conduct business in South Carolina, along with affiliated or related entities, and assigns, as Sponsor (collectively, "Company") and any other entity that may join as a Sponsor Affiliate as the term is defined in this Agreement (hereinafter, the County, the Company, and any Sponsor Affiliate are referred to individually as a "Party" and, collectively, as "Parties").

WITNESSETH:

WHEREAS, the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (referred to herein as the "Act", which term is further defined in Section 1.3 below), to enter into a Fee Agreement with companies meeting the requirements of such Act which identifies certain property of such companies as economic development property to induce such companies to locate in this State and to encourage companies now located in this State to expand their investments and thus make use of and employ manpower and other resources of this State;

WHEREAS, pursuant to the Act, the County finds that (a) it is anticipated that the Project (as defined herein) will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally; (b) neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project to the public are greater than the costs to the public;

WHEREAS, the Company, as Sponsor, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates (as defined under the Act) that the Sponsor may designate and have the County approve in accordance with the Act, contingent upon satisfaction of certain commitments made by and on behalf of the County, as set forth herein, and, to the extent allowed by law, plans to establish a Project in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment (referred to hereafter as the "Project," which term is further defined in Section 1.3 below), which will result in \$10,000,000 in new investment in real and personal property in the County ("Investment");

WHEREAS, pursuant to an Inducement Resolution dated July 28, 2015 (the "Inducement Resolution") and County Council Ordinance No. [] adopted [insert date], the County considered to enter into a Fee Agreement with the Company which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the Act using an assessment ratio of 6%, a fixed millage rate of 493.548 for 20 years and the grant of special source revenue credits in amounts more fully described herein;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

ARTICLE I

RECAPITULATION AND DEFINITIONS

SECTION 1.1 *Statutorily Required Recapitulation.* Pursuant to Section 12-44-55(B), the County, the Company, and, as applicable, any Sponsor Affiliate agree to waive the recapitulation requirements of Section 12-44-55. If the Company and, as applicable, any Sponsor Affiliate should be required to retroactively comply with the recapitulation requirements of Section 12-44-55, then the County agrees to waive all penalties and fees of the County for the Company's and, as applicable, any Sponsor Affiliate's noncompliance.

SECTION 1.2 *Rules of Construction; Use of Defined Terms.* Unless the context clearly indicates otherwise, in this Fee Agreement words and terms defined in Section 1.3 hereof are used with the meanings ascribed thereto. The definition of any document shall include any amendments to that document, unless the context clearly indicates otherwise.

SECTION 1.3 *Definitions.*

"Act" means Title 12 Chapter 44, Code of Laws of South Carolina 1976, as in effect on the date hereof and, to the extent such amendments are specifically made applicable to this Fee Agreement or the Project, as the same may be amended from time to time; provided that if any such amendment shall be applicable only at the option of the County or the Company, or, as applicable, any Sponsor Affiliate then such amendment shall only be applicable with the consent or at the request of the Company.

"Applicable Governmental Body" means each governmental entity within the State having jurisdiction over or the right to approve or disapprove any or all of the Documents.

"Chair" means the Chair of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Chair).

"Clerk" means the Clerk of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Clerk).

"Commencement Date" means the earlier of: (a) the last day of the first property tax year during which Economic Development Property (defined below) is placed in service; or (b) the last day of the property tax year that is three years from the year in which the Parties entered into this Fee Agreement.

"Company" means Gaston Solar I, LLC.

"County Council" means the County Council of the County.

"County" means **Lexington County, South Carolina**, and its successors and assigns.

"Documents" means the Ordinance and this Fee Agreement.

"DOR" means the South Carolina Department of Revenue and any successor thereto.

"Economic Development Property" means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to this Fee Agreement, and which are identified by the Company and, as applicable, any Sponsor Affiliate in

connection with its annual filing of a DOR PT-300 or comparable forms with DOR (as such filing may be amended from time to time) for each year within the Investment Period, as that period may be extended by subsequent, formal action of County Council, or automatically as permitted under the Act or under this Fee Agreement. Title to all Economic Development Property shall at all times remain vested in the Company and, as applicable, in any Sponsor Affiliate, except as may be necessary to take advantage of the effect of Section 12-44-160 of the Act.

“Equipment” means all machinery, apparatus, equipment, fixtures, office facilities, furnishings and other personal property together with any and all additions, accessions, replacements and substitutes thereto or therefor acquired by the Company and, as applicable, any Sponsor Affiliate, during the Investment Period as a part of the Project under this Fee Agreement. The Equipment and its constituent parts together with any and all improvements or other features constructed on, or personal property installed or placed on the Real Property by or for the Company, or, as applicable, any Sponsor Affiliate, including without limitation, machinery, fixtures, trade fixtures, racking, inverters, cables, solar panels, and other personal property are personal property within the meaning of Article 9 regardless of the manner of attachment to the Real Property.

“Event of Default” shall mean any Event of Default specified in Section 9.1 of this Fee Agreement.

“Fee Agreement” means this Fee Agreement dated as of _____, 2015, between the County and the Company and any future amendments hereto.

“Fee Term” shall mean the duration of this Fee Agreement with respect to each Stage of the Project as specified in Section 5.5 hereof.

“FILOT” means fee in lieu of *ad valorem* tax(es).

“Improvements” mean improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company and, as applicable, the Sponsor Affiliate, during the Investment Period as part of the Project.

“Inducement Resolution” shall mean the Resolution of the County Council adopted on July 28, 2015, committing the County to enter into the Fee Agreement.

“Infrastructure Credit Act” shall mean Sections 4-1-175, 4-29-68 and 12-44-70 of the Code, which when taken together provide for certain credits against Payments-in-Lieu-of-Taxes.

“Contractual Investment” shall mean Ten Million (\$10,000,000.00) Dollars and shall include but not be limited to (i) taxable expenditures, without regard to depreciation, which are made by the Company and any Sponsor Affiliate towards or for the benefit of the Project; (ii) capital expenditures, without regard to the depreciation, which are made by the Company and any Sponsor Affiliate towards or for the benefit of the Project, regardless of the source of payment of such expenditures; (iii) the value of any assets leased by the Company and any Sponsor Affiliate, without regard to the depreciation, regardless of the source of payment of such expenditures so long as the value of such leased assets are reported by the Company and any Sponsor Affiliate on their respective DOR PT-300; and (iv) any other expenditures made by the Company and any Sponsor Affiliate that the County and the Company and, as applicable, any Sponsor Affiliate, may mutually agree upon in a writing that is executed by an authorized representative of the Company and the County Administrator. The Investment for purposes of the

Investment stated herein shall include those expenditures made by both the Company and any Sponsor Affiliate prior to the end of the Investment Period.

“Investment Period” shall mean the period beginning with the first day that economic development property is purchased or acquired and ending on the last day of the fifth property tax year following the Commencement Date, subject to an extension for such period as provided in Section 3.2(b) hereof. The Investment Period is anticipated to end December 31, 2020.

“Minimum Investment” shall have the meaning given to such term under Section 12-44-30(14) of the Act.

“Ordinance” means the Ordinance adopted by the County on _____, 2015, authorizing this Fee Agreement.

“Payments-in-Lieu-of-Taxes” means the payments to be made by the Company and, as applicable, any Sponsor Affiliate pursuant to Section 5.1 of this Agreement.

“Project” shall include the Equipment, Improvements, and Real Property together with the acquisition, lease, construction, installation, design and engineering thereof.

“Real Property” means the real property upon which any part of the Project is to be constructed and expanded, as described in Exhibit A attached hereto and as supplemented from time to time, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company and, as applicable, any Sponsor Affiliate; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Stages of the Project or portions thereof, all of which the Company and, as applicable, any Sponsor Affiliate, as the case may be, shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Stages of the Project or portions thereof which the Company and, as applicable, any Sponsor Affiliate, in their sole discretion, determine to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Stages of the Project or portions thereof which the Company and, as applicable, any Sponsor Affiliate, in their sole discretion, elect to remove pursuant to this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and, as applicable, any Sponsor Affiliate and treated as a Removed Component under Section 5.1 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement so long as the replacement property maintains the viability of the Project.

“Sponsor Affiliate” means an affiliate that joins with or is an affiliate of the Company, or that otherwise has a contractual relationship with the Company in respect of the Project, whose Investment with respect to the Project shall be considered part of the Investment and qualify for Payments-in-Lieu of Taxes pursuant to Section 5.1 hereof and Sections 12-44-30(A) and 12-44-130 of the Act and who joins and delivers a Joinder Agreement in a form substantially similar to that attached hereto as Exhibit B.

“**Stage**” or “**Stages**” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period, as extended.

“**Stage Termination Date**” means with respect to each Stage of the Project the day nineteen years after each such Stage of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Stage Termination Date shall be no later than December 31 of the year of the expiration of the nineteenth full calendar year, after the Commencement Date.

“**State**” means the State of South Carolina.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II

LIMITATION OF LIABILITY; INDUCEMENT

SECTION 2.1 *Limitation of Liability.* Any obligation which the County may incur for the payment of money as a result of the transactions described in the Documents shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under the Documents.

SECTION 2.2 *Inducement.* The County, the Company and, as applicable, any Sponsor Affiliate acknowledge that pursuant to the Act, upon execution of this Fee Agreement, no part of the Project will be subject to ad valorem property taxation in the State, and that this factor, among others, has induced the Company and, as applicable, any Sponsor Affiliate to enter into or join this Fee Agreement.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 3.1 *Representations and Warranties of the County.* The County makes the following representations and warranties to the Company and, as applicable, any Sponsor Affiliate and covenants with the Company and, as applicable, any Sponsor Affiliate as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the Act to execute the Documents to which it is a party and to fulfill its obligations described in the Documents. By proper action, the County Council has duly authorized the execution and delivery of the Documents to which the County is a party and has taken all such action as is necessary to permit the County to enter into and fully perform the transactions required of it under the Documents.

(b) Neither the execution and delivery of the Documents, nor the consummation and performance of the transactions described in the Documents, violate, conflict with or will result in a breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the County is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the County, wherein an unfavorable decision, ruling or finding may or would materially affect the County's obligations hereunder or the consummation of the transactions described in the Documents.

(d) Neither the existence of the County nor the rights of any members of County Council to their offices is being contested and none of the proceedings taken to authorize the execution, delivery and performance of such of the Documents as require execution, delivery and performance by the County has been repealed, revoked, amended or rescinded.

(e) All consents, authorizations and approvals required on the part of the County, State and all other Applicable Governmental Bodies in connection with the execution, delivery and performance by the County of such of the Documents as require execution, delivery and performance by the County have been obtained and remain in full force and effect as of the date hereof or will be obtained.

(f) The Project constitutes a "project" within the meaning of the Act.

(g) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of property comprising the Project shall be considered economic development property under the Act.

(h) The Documents to which the County is a party are (or, when executed, will be) legal, valid and binding obligations of the County enforceable against the County under present law in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

SECTION 3.2 Covenants by the County. The County covenants with the Company and, as applicable, any Sponsor Affiliate as follows:

(a) The County agrees to do all things deemed reasonably necessary as requested by the Company or, as applicable, any Sponsor Affiliate in writing in connection with the Project including but not limited to the execution, delivery and performance of its obligations in the Documents and in accordance with the Act, all for the purposes of promoting industrial development, developing trade, and utilizing and employing the manpower and natural resources of the County and the State. Except as reasonably believed to be required by the County in the performance of its duties under statute or law, the County will take no action with respect to the Project unless authorized or requested to do so by the Company or, as applicable, any Sponsor Affiliate.

(b) Upon receipt of written request from the Company, or, as applicable, any Sponsor Affiliate, the County agrees to consider any request the Company, or, as applicable, any Sponsor Affiliate may make for an extension of the Investment Period in accordance with and up to the limits permitted under Section 12-44-30(13) of the Act. Such extension may be provided by a resolution of County Council. Upon the granting of any such extension the County agrees to cooperate with the Company and, as applicable, any Sponsor Affiliate by filing with the DOR a copy of such extension within 30 days of the date of execution thereof by the County. Such extension may be provided by a resolution of County Council.

SECTION 3.3 *Representations and Warranties of the Company.* The Company makes the following representations and warranties to the County:

(a) The Company is a limited liability company authorized to transact business in South Carolina. The Company has full corporate power to execute the Documents to which it is a party and to fulfill its obligations described in the Documents and, by proper corporate action, has authorized the execution and delivery of the Documents to which it is a party.

(b) Neither the execution and delivery of the Documents to which the Company is a party, nor the consummation and performance of the transactions described in the Documents violate, conflict with, or will, to its knowledge, result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the Company is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the Company wherein an unfavorable decision, ruling or finding would adversely affect the Company or the consummation of the transactions described in the Documents.

(d) All consents, authorizations and approvals required on the part of the Company in connection with the Documents and the transactions contemplated thereby and the acquisition, construction and installation of the Project have been obtained and remain in full force and effect or will be obtained.

(e) The Documents to which the Company is a party are (or, when executed, will be) legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

(f) The cost of the Project shall result in a minimum investment of real and personal property of \$10,000,000.

ARTICLE IV

COMMENCEMENT AND COMPLETION OF THE PROJECT

SECTION 4.1 The Project. The Company and, as applicable, any Sponsor Affiliate plans to establish a facility for the production of renewable energy in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment.

Pursuant to the Act, the Company and, as applicable, any Sponsor Affiliate and the County hereby agree that the property comprising the Project shall be Economic Development Property so long as such property meets the requirements of the Act.

SECTION 4.2 *Diligent Completion.* The Company and, as applicable, any Sponsor Affiliate agrees to use its reasonable efforts to cause the acquisition, lease, construction and installation of the Project to be completed; however, notwithstanding anything contained in this Fee Agreement to the contrary, the Company and, as applicable, any Sponsor Affiliate shall not be obligated to complete the acquisition of the Project and may terminate this Agreement with respect to all or portion of the Project as set forth in Article X herein.

SECTION 4.3 *Modifications to Project.* The Company and, as applicable, any Sponsor Affiliate may make or cause to be made from time to time any additions, modifications or improvements to the Project that it may deem desirable for its business purposes.

ARTICLE V

PAYMENTS-IN-LIEU-OF-TAXES; DISPOSITION OF PAYMENTS-IN-LIEU-OF-TAXES

SECTION 5.1 *Payments-in-Lieu-of-Taxes.* The parties acknowledge that under Article I, Section 3 of the South Carolina Constitution, the Project is exempt from ad valorem property taxes assuming a Fee Agreement is signed and such portion of the Project constitutes Economic Development Property. However, the Company and, as applicable, any Sponsor Affiliate shall be required to make the Payments-in-Lieu-of-Taxes with respect to such portions of the Project constituting Economic Development Property as provided in this Section 5.1. In accordance with the Act, and unless this Fee Agreement is sooner terminated, the Company and, as applicable, any Sponsor Affiliate shall make annual Payments-in-Lieu-of-Taxes with respect to those portions of the Project constituting Economic Development Property, said payments being due and payable and subject to penalty assessments in the manner prescribed by the Act. Such amounts shall be calculated and payable as follows:

(a) The Company and, as applicable, any Sponsor Affiliate has agreed to make annual Payments-in-Lieu-of-Taxes with respect to the Economic Development Property comprising the Project in an amount equal to the property taxes that would be due with respect to such property, if it were taxable, but using an assessment ratio of 6% and a millage rate of 493.548, the initial twenty (20) payments of which shall be reduced as described in Section 5.1(b) herein.

Subject in all events to the provisions of the Act, the fair market value estimate determined by the DOR will be as follows:

- (i) for real property, using the original income tax basis for South Carolina income tax purposes without regard to depreciation; provided, however, if real property is constructed for the fee or is purchased in an arm's length transaction, fair market value equals the original income tax basis; otherwise, the DOR will determine fair market value by appraisal; and
- (ii) for personal property, using the original income tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes, except that the Company and, as applicable, any Sponsor Affiliate is not entitled to extraordinary obsolescence.

Should the Company along with any Sponsor Affiliate fail to invest at least \$5,000,000 by December 31, 2020, the Chair of County Council shall meet with an appropriate Company official to discuss the Company's investment and the potential reversion of the payments in lieu of ad valorem taxes due under this Fee Agreement to payments that would have resulted from ad valorem taxes levied on the Project.

Should the Company and any Sponsor Affiliate invest \$5,000,000 but less than the Contractual Investment by December 31, 2020, then the assessment ratio applicable to the Project under Section 5.1(a) hereof shall, prospectively but not retroactively, be increased from 6% to 8%.

Should the Company and any Sponsor Affiliate invest at least the Contractual Investment by December 31, 2020, there shall be no adjustment in the calculation of the Payments-in-Lieu-of-Taxes.

(b) The Payments-in-Lieu-of-Taxes must be made on the basis that the Project property, if it were otherwise subject to *ad valorem* property taxes, would be allowed all applicable exemptions from

those taxes, except for the exemptions allowed under Section 3(g) of Article X of the South Carolina Constitution and Section 12-37-220(B)(32) and (34) of the Code of Laws of South Carolina, as amended.

(c) The Company and, as applicable, any Sponsor Affiliate shall make Payments-in-Lieu-of-Taxes for each year during the Term hereof beginning in connection with the property tax year following the Commencement Date. The Payments-in-Lieu-of-Taxes shall be made to the County Treasurer on the due dates which would otherwise be applicable for ad valorem property taxes for the Project,.

(d) Any Economic Development Property placed in service as part of the Project during the Investment Period shall be included in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, for a period not exceeding 20 years following the year in which such property was placed in service.

(e) Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, but only up to the original income tax basis of property which is being disposed of in the same property tax year. Replacement Property shall be deemed to replace the oldest property subject to the fee which is disposed of in the same property tax year that the Replacement Property is placed in service. More than one piece of property can replace a single piece of property. Replacement Property does not have to serve the same function as the property it is replacing.

(f) In the event that the Act and/or the above-described Payments-in-Lieu-of-Taxes or Special Source Revenue Credits (pursuant to Section 5.2 herein) are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company and any Sponsor Affiliate, with the benefits to be derived hereunder. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company and, as applicable, any Sponsor Affiliate, shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company, and, as applicable, any Sponsor Affiliate, as the case may be, with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company and, applicable, any Sponsor Affiliate, to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company, and, as applicable, any Sponsor Affiliate, with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law.

SECTION 5.2 *Special Source Revenue Credit.* As an inducement for the Investment and in accordance with Section 12-44-70 of the Act, the County grants to the Company and any Sponsor Affiliate a Special Source Revenue Credit (“SSRC”) equal to ten percent (10%) of the value of the annual Payments-in-Lieu-of-Taxes due for property tax years one (1) through ten (10) (the “Credit Period”) beginning with the first property tax year for which a Payment-in-Lieu-of-Taxes becomes due. If, as of the end of the Investment Period, the Contractual Investment Amount is not met, the SSRC shall terminate prospectively for the remainder of the Credit Period.

With respect to the SSRC, the County shall automatically reflect the SSRC against the Payment-in-Lieu-of-Taxes on those invoices provided by the County to the Company and any Sponsor Affiliate. The Company and any Sponsor Affiliate shall be permitted to utilize the SSRC to offset any qualifying expenditures as provided under the Code, including under the Act and the Infrastructure Credit Act.

[PLACEHOLDER FOR SSRC REPAYMENT AND TERMINATION PARAGRAPH TO BE INSERTED PRIOR TO THIRD READING]

SECTION 5.3 *Disposal and Removal of Property; Replacement Property.*

(a) In any instance where the Company and, as applicable, any Sponsor Affiliate, in their sole discretion determine that any item or items of property included in the Project have become, in whole or in part, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company and, as applicable, any Sponsor Affiliate may remove such item (or such portion thereof as the Company and, as applicable, any Sponsor Affiliate shall determine) or items and sell, trade in, exchange or otherwise dispose of it or them (as a whole or in part) without any responsibility or accountability to the County therefor. The loss or removal from the Project of any property, or any portion thereof, as a result of fire or other casualty or by virtue of the exercise or threat of the power of condemnation or eminent domain shall be deemed to be a disposal of such property, or portion thereof, pursuant to this Section 5.3. Subject to the provisions of Section 5.1(e) and this Section 5.3 with respect to Replacement Property, the Payments-in-Lieu-of-Taxes required by Section 5.1 hereof shall be reduced by the amount thereof applicable to any property included in the Project, or part thereof, disposed of, or deemed disposed of, pursuant to this Section 5.3. In the event that such disposal or removal (without replacement) reduces the Company's and, as applicable, any Sponsor Affiliate's gross investment below \$10,000,000, then the Project shall revert to ad valorem taxation and this agreement shall terminate pursuant to Section 12-44-140 of the Act except that at the request of the Company the County Council may elect to amend this Fee Agreement to allow for the continuation of the benefits or some modification thereof in connection with the Project.

(b) The Company and, as applicable, any Sponsor Affiliate may, in their sole discretion, replace, renew or acquire and/or install other property in substitution for, any or all property or portions thereof disposed of, or deemed disposed of, pursuant to Section 5.3(a) hereof. Any such property may, but need not, serve the same function, or be of the same utility or value, as the property being replaced. Absent a written election to the contrary made at the time of filing the first property tax return that would apply to such property, such property shall be treated as Replacement Property.

SECTION 5.4 *Leased Equipment.* To the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of Payments-in-Lieu-of-Taxes as described in Section 5.1 hereof, to be applicable to personal property to be installed at the Project and leased to but not purchased by the Company and, as applicable, any Sponsor Affiliate, from at least one third party, under any form of lease, then that personal property, at the Company's or Sponsor Affiliates' sole election, will become subject to Payments-in-Lieu-of-Taxes to the same extent as the Equipment under this Fee Agreement, upon proper application of the law and applicable procedures by the Company, and, as applicable, any Sponsor Affiliate and so long as the value of such leased assets are reported by the Company or any Sponsor Affiliate, as applicable, on their respective DOR PT-300.

SECTION 5.5 *Fee Term.* The applicable term of this Fee Agreement shall be measured for each Stage beginning from the last day of the property tax year in which the Project is placed in service in that Stage through the last Stage Termination Date; provided, that the maximum term of this Fee Agreement shall not be more than 20 years from the end of the last year of the Investment Period.

This Fee Agreement shall terminate with respect to the Project or any Stage or part thereof upon the earlier to occur of (a) payment of the final installment of Payments-in-Lieu-of-Taxes pursuant to Section 5.1 hereof, or (b) exercise by the Company and, as applicable, any Sponsor Affiliate of their option to terminate pursuant to Section 10.1 hereof.

SECTION 5.6 *Minimum Investment.* If the Company, together with any Sponsor Affiliate, has not invested the Minimum Investment at the Project, then the Project shall revert retroactively to ad valorem taxation and the Company or, as applicable, any Sponsor Affiliate shall, within ~~180~~ 90 days of the end of the Investment Period, make payment to the County of the difference between the Payments-in-Lieu-of-Taxes actually made and the total retroactive amount referred to in this Section, provided that the Company and any Sponsor Affiliate shall be entitled to any statutory abatements that otherwise would have been afforded had the Project not been receiving the benefits set forth under this Fee Agreement.

SECTION 5.7 *Damage or Destruction of Project.*

(a) *Election to Terminate.* Subject to the provisions herein for failure to meet the Contractual Investment required in Section 5.1, in the event the Project is damaged by fire, explosion, or any other casualty, the Company and, as applicable, any Sponsor Affiliate, shall be entitled to terminate this Fee Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company and, as applicable, any Sponsor Affiliate, do not elect to terminate this Fee Agreement, the Company and, as applicable, any Sponsor Affiliate may, in their sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company and, as applicable, any Sponsor Affiliate. All such restorations and replacements shall be considered substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due by the Company and, as applicable, any Sponsor Affiliate, to the County under Section 5.1 hereof, to the extent allowed by the Act.

(c) *Election to Remove.* Subject to the provisions as to disposal or removal in section 5.3, in the event the Company and, as applicable, any Sponsor Affiliate, elect not to terminate this Fee Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

SECTION 5.8 *Condemnation.*

(a) *Complete Taking.* If, at any time during the Fee Term, title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued operation of the Project commercially infeasible in the judgment of the Company and, as applicable, any Sponsor Affiliate, then the Company or any Sponsor Affiliate (with respect to its Project property only) shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company and, as applicable, any Sponsor Affiliate, may elect: (i) to terminate this Fee Agreement (with respect to its Project property only); (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company and, as applicable, any Sponsor Affiliate; or (iii) to treat the portions of the Project so taken as Removed Components.

SECTION 5.9 *Maintenance of Existence.* The Company and, as applicable, any Sponsor Affiliate agree (i) that they shall not take any action which will materially impair the maintenance of their corporate existence and (ii) that they will maintain their good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the corporate existence of the Company or, as applicable, any Sponsor Affiliate, that result from internal restructuring or reorganization of the Company or, as applicable, any Sponsor Affiliate, or their parents are specifically authorized hereunder; and further, subject to requirement to achieve the Minimum Investment, the Company and, as applicable, any Sponsor Affiliate are entitled to cease operations of the Project at any time without that cessation constituting an Event of Default under this Fee Agreement. Likewise, benefits granted to the Company and, as applicable, any Sponsor Affiliate, under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 8.2 hereof. Such transfers to a successor entity substantially similar in nature and function to the Company and, as applicable, any Sponsor Affiliate, are specifically approved and authorized by the County without any further action by the County Council.

SECTION 5.10 *Confidentiality/Limitation on Access to Project.* The County acknowledges and understands that the Company and, as applicable, any Sponsor Affiliate, utilize confidential and proprietary “state-of-the-art” information and data in their operations, and that a disclosure of any information, including, but not limited to, disclosures of financial or other information concerning the Company’s operations and, as applicable, any Sponsor Affiliate’ operations, could result in substantial harm to them and could thereby have a significant detrimental impact on their employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County’s police powers, neither the County nor any employee, agent or contractor of the County: (i) shall request or be entitled to receive any such confidential or proprietary information; (ii) shall request or be entitled to inspect the Project or any property associated therewith; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the County shall be entitled to inspect the Project provided they shall comply with the remaining provisions of this Section; or (iii) shall knowingly and intentionally disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law. Notwithstanding the foregoing, whenever the County shall be required by any governmental or financial entity to file or produce any reports, notices, returns or other documents while the Fee Agreement is in effect, the Company or owner of the Project at the time shall promptly furnish to the County through the County Attorney the completed form of such required documents together with a certification by the Company or owner that such documents are accurate and not in violation of any provisions of law or of the other documents of this transaction, and that the documents meet the legal requirements of such filing or delivery. In the event of the failure or refusal of the Company or owner to comply with this provision, the Company or owner agrees to pay the statement for attorneys fees and administrative time presented by the County for producing and filing such documents, such statement to be paid within thirty (30) days after presentation by the County, and to promptly pay any fees, penalties, assessments or damages imposed upon the County by reason of its failure to duly file or produce such documents. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company and, as applicable, any Sponsor Affiliate, may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

SECTION 5.11 *Addition of Sponsor Affiliates.* Upon request of and at the expense of the Company, the County may approve any future Sponsor Affiliate that qualifies under the Act for the benefits offered under this Fee Agreement and which agrees to be bound by the provisions hereof to be

further evidenced by such future Sponsor Affiliate entering into a Joinder Agreement in the form attached to this Fee Agreement subject to any changes approved by the Chair that are not materially adverse to the County.

SECTION 5.12 *Certification of Investment.* The Company and, as applicable, any Sponsor Affiliate shall submit by April 30 of each year of the Investment Period to the County Auditor and County Economic Development Director documentation certifying its Investment for the preceding property tax year, with the first certification anticipated to be due April 30, 2017. Should the Company fail to such certification on April 30 following each year of the Investment Period, the County may choose to terminate this Agreement upon written notice of default to the Company by the County and the expiration of a 30-day cure period.

ARTICLE VI

PROPERTY TAX EXEMPTION AND ABATEMENT

SECTION 6.1 *Protection of Tax Exempt Status of the Project.* In order to insure that the Project is not and will not become subject to ad valorem property taxes under the laws of the State of South Carolina or any political subdivision thereof, the County and the Company and, as applicable, any Sponsor Affiliate covenant that:

(a) all right and privileges granted to either party under this Fee Agreement or any other Documents shall be exercised so that if any conflict between this Section and any other provision in any document shall arise, then in that case, this Section shall control;

(b) the County and the Company and, as applicable, any Sponsor Affiliate have not knowingly committed or permitted and will not knowingly commit or permit (as to any act over which either has control) any act which would cause the Project to be subject to ad valorem property taxes by the County or political subdivision of the State in which any part of the Project is located; and

(c) the Company and, as applicable, any Sponsor Affiliate will maintain the identity of the Project as a "project" in accordance with the Act.

ARTICLE VII

EFFECTIVE DATE

SECTION 7.1 *Effective Date.* This Fee Agreement shall become effective upon its execution and delivery by the parties hereto unless a date is specified herein.

ARTICLE VIII

SPECIAL COVENANTS

SECTION 8.1 *Indemnification Covenants.* (a) The Company and, as applicable, any Sponsor Affiliate shall and agrees to hold the County and its County Council members, officers, agents and employees harmless from all pecuniary liability in connection with those reasons set forth in (i) or (ii) of Section 8.1(b) and to reimburse them for all reasonable expenses to which any of them might be subject due to the approval and entering into of the Documents or the fulfillment of their obligations under this Fee Agreement in the implementation of its terms and provisions.

(b) Notwithstanding the fact that it is the intention of the parties that neither the County nor any of its members, officers, agents and employees shall incur any pecuniary liability to any third-party (i) by reason of the terms of this Fee Agreement or the undertakings of the County required hereunder, or (ii) by reason of the performance of any act in connection with the entering into and performance of the transactions described in the Documents, if the County or any of its members, officers, agents or employees should incur any such pecuniary liability, then, in that event the Company and, as applicable, any Sponsor Affiliate shall indemnify and hold harmless the County and its members, officers, agents and employees against all pecuniary claims by or on behalf of any person, firm or Company, arising out of the same, and all costs and expenses incurred in connection with any such claim, and upon notice from the County, the Company and, as applicable, any Sponsor Affiliate at their own expense shall defend the County and its officers, agents and employees in any such action or proceeding.

(c) Notwithstanding the foregoing, the Company and, as applicable, any Sponsor Affiliate shall not be obligated to indemnify the County or any of its individual members, officers, agents and employees for expenses, claims, losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual officers, agents or employees.

SECTION 8.2 *Assignment and Leasing.* The County agrees to consent, to the maximum extent allowed by the Act, for financing purposes, to: (a) any sale, transfer, disposition or assignment of the Fee Agreement, whether in whole or in part, by the Company or, as applicable, any Sponsor Affiliate or any transferee or assignee; (b) the transfer or assignment of security or other interests in any or all of the Company's or, as applicable, any Sponsor Affiliate's interests in the property subject to the Fee Agreement; or (c) the sublease of any property subject to the Fee Agreement. The County further agrees that, if future County consent is required by the Act, the County Council can provide any such consent by a resolution of County Council. The County Administrator and the Clerk to County Council are hereby expressly individually and jointly authorized and directed to evidence the County's consent by timely executing such documents as the Company and, as applicable, any Sponsor Affiliate may reasonably request. Further, for the purposes of this Fee Agreement and as noted in Article 5 herein, a transaction or an event of sale, assignment, leasing, transfer of an interest herein, disposal, or replacement of all or part of the Project shall not be a termination of the Fee Agreement in whole or in part or a basis for changing the fee payments due under Section 12-44-50 of the Act.

ARTICLE IX

EVENT OF DEFAULT AND REMEDIES

SECTION 9.1 *Events of Default Defined.* The occurrence of any one or more of the following events shall be an "Event of Default" under this Fee Agreement:

(a) If the Company shall fail to make any Payment-in-Lieu-of-Taxes or any other amount required under this Fee Agreement and such failure shall continue for 30 days after receiving written notice of default from the County; or

(b) If the Company or the County shall fail to observe or perform any covenant, condition or agreement required herein to be observed or performed by the Company or the County (other than as referred to in Section 9.1(a) hereof), and such failure shall continue for a period of 30 days after written notice of default has been given to the Company and by the County or to the County by the Company; provided if by reason of "force majeure" as hereinafter defined the Company or the County is unable in whole or in part to carry out any such covenant, condition or agreement or if it takes longer than 30 days to cure such default and the Company or the County is diligently attempting to cure such default, there

shall be no Event of Default during such inability. The term “force majeure” as used herein shall mean circumstances not reasonably within the control of the parties, such as without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company or the County made in the Documents, or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

SECTION 9.2 Remedies on Default. Whenever any Event of Default shall have happened and be subsisting the County, after having given written notice to the Company of such default and after the expiration of a thirty (30) day cure period, may take whatever action at law or in equity may appear legally required or necessary or desirable to collect the payments and other amounts then due or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Documents, including the right to terminate this Fee Agreement, except that the sole remedy with regard to Sections 5.1 and 5.2 is set forth therein. Although the parties acknowledge that the Project is exempt from ad valorem property taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, exercise the remedies provided by general law (Title 12, Chapter 49 and Title 12, Chapter 51) and the Act relating to the enforced collection of taxes.

SECTION 9.3 No Additional Waiver Implied by One Waiver. In the event any warranty, covenant or agreement contained in this Fee Agreement should be breached by the Company or the County and thereafter waived by the other party to this Fee Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

ARTICLE X

OPTION OF THE COMPANY

SECTION 10.1 Option to Terminate. From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days notice, the Company may terminate this Fee Agreement with respect to the entire Project or any portion thereof. Upon termination of all or part of this Fee Agreement, the Company and, as applicable, any Sponsor Affiliate will become liable for ad valorem property taxes on the Project or such portion thereof beginning with the property tax year following such termination.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1 Notices. All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by facsimile or certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 11.1:

If to the Company: Elizabeth Ferrell

Sr. Corporate Counsel
Cypress Creek Renewables, LLC
3250 Ocean Park Blvd., Ste 355
Santa Monica, CA 90405

WITH A COPY TO:
(shall not constitute notice)

Parker Poe Adams & Bernstein LLP
ATTN: Sam C. Moses, Esquire
1201 Main Street, Suite 1450
Columbia, South Carolina 29202
Telephone: (803) 255-8000
Facsimile: (803) 255-8017
Email: sammoses@parkerpoe.com

If to the County: Lexington County Council, South Carolina
212 South Lake Drive
Lexington, SC 29072
Attention: Clerk to Council
Facsimile: 803-785-8101

With A Copy To: Jeffrey M. Anderson
Davis | Frawley, LLC
140 E. Main Street
P.O. Box 489
Lexington, SC 29071-0489
Facsimile: 803-359-7478

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; (2) by facsimile, 24 hours after confirmed transmission or dispatch; and (3) by certified mail, 3 business days after delivery to the U.S. Postal authorities by the party serving notice.

SECTION 11.2 *Binding Effect.* This Fee Agreement shall inure to the benefit of and shall be binding upon the County and the Company and, as applicable, any Sponsor Affiliate and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

SECTION 11.3 *Invalidity and Severability.* In the event any provision of this Fee Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Fee Agreement, unless that decision destroys the basis for the transaction, in which event the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company and, as applicable, any Sponsor Affiliate hereunder by either restructuring or reconstituting this Fee Agreement under any then applicable law, including but not limited to Chapter 20 of Title 4 and Chapter 12 of Title 4, Code of Laws of South Carolina, as amended.

SECTION 11.4 *Payments Due on Saturday, Sunday and Holidays.* Whenever any payment to be made hereunder shall be stated to be due on a Saturday, a Sunday or a holiday, such payment shall be made on the next business day.

SECTION 11.5 *Payment of Administrative Expenses.* The Company and, as applicable, any Sponsor Affiliate will pay all reasonable costs of the County, including attorney's fees, incurred in connection with the authorization, execution and delivery of this Fee Agreement, in an amount not to exceed \$[_____].

SECTION 11.6 *Fiscal Year; Property Tax Year.* If the Company's and, as applicable, any Sponsor Affiliate's fiscal year changes in the future so as to cause a change in the Company's and, as applicable, any Sponsor Affiliate's property tax year, the timing of the requirements set forth in this Fee Agreement shall be revised accordingly.

SECTION 11.7 *Amendments, Changes and Modifications.* Except as otherwise provided in this Fee Agreement, this Fee Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company and, as applicable, any Sponsor Affiliate. To the maximum extent allowed by law, any such County consent may be provided by a resolution of County Council.

SECTION 11.8 *Execution of Counterparts.* This Fee Agreement may be executed in several counterparts, only one of which shall be an original for Uniform Commercial Code perfection purposes; provided, however, that any action may be brought upon any counterpart of this Fee Agreement or any counterpart of any document that is attached to this Fee Agreement as an exhibit.

SECTION 11.9 *Law Governing Construction of Agreement.* The laws of the State of South Carolina shall govern the construction of this Fee Agreement.

SECTION 11.10 *Filings.* Whenever the County shall be required to file or produce any reports, notices or other documents during the Fee Term in connection with the Project or the Documents, the Company and, as applicable, any Sponsor Affiliate shall in due time furnish to the County the completed form of such report, notice or other required documents, subject to the provisions of Section 5.10 herein, together with a certification by the Company and, as applicable, any Sponsor Affiliate that such document is accurate.

SECTION 11.11 *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

SECTION 11.12 *Further Assurance.* From time to time the County agrees to execute and deliver to the Company and, as applicable, any Sponsor Affiliate such additional instruments as the Company may reasonably request to effectuate the purposes of this Fee Agreement.

IN WITNESS WHEREOF, LEXINGTON COUNTY, SOUTH CAROLINA, and the COMPANY, each pursuant to due authority, have duly executed this Fee Agreement, all as of the date first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat
Chair of Lexington County Council

ATTEST:

Diana W. Burnett
Clerk, Lexington County Council

GASTON SOLAR I, LLC

By: _____

Its: _____

EXHIBIT A

PROPERTY DESCRIPTION

A leased parcel with easements for access and utilities, located in County of Lexington, State of South Carolina, as a portion of parcel more commonly known as tax map number Numbers 011900-02-036 and 01190-02-035 and more specifically described in deed book 3294 page 013 in Lexington County, State of South Carolina, Register of Deeds office.

EXHIBIT B
JOINDER AGREEMENT
[to be provided]

ORDINANCE 15-10

AN ORDINANCE AUTHORIZING PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA AND GASTON SOLAR II, LLC, ALONG WITH ITS AFFILIATES AND RELATED ENTITIES AS SPONSOR, AND ONE OR MORE SPONSOR AFFILIATES TO PROVIDE FOR A FEE-IN-LIEU OF AD VALOREM TAXES INCENTIVE AND CERTAIN SPECIAL SOURCE REVENUE CREDITS; AND MATTERS RELATING THERETO.

WHEREAS, Lexington County (the “County”), a public body corporate and politic under the laws of the State of South Carolina has, by an Inducement Resolution adopted on July 28, 2015 (the “Resolution”), taken official action to identify the project (as defined below) for purposes of applicable fee-in-lieu of taxes statutes and otherwise;

WHEREAS, the County desires to enter into a fee agreement (the “Fee Agreement”), attached hereto as Exhibit A, with Gaston Solar II, LLC (the “Company”), which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976 (the “Code”), as amended (the “Act”) and the provision of Special Source Revenue Credits, as authorized pursuant to Sections 4-1-175, 4-29-68 and 12-44-70 of the Code (collectively, the “Infrastructure Credit Act”) and as further described in the Fee Agreement;

WHEREAS, the County and the Company desire to enter into a Fee Agreement concerning the establishment of a facility in the County which will consist of certain real and personal property including all equipment, furnishings and other personal property required by the Company and any and all activities relating thereto (which properties constitute a project as defined under the Act and are referred to herein as the “Project”). The Project is expected to provide significant economic benefits to the County and surrounding areas. In order to induce the Company to locate the Project in the County, the County has agreed to charge a fee-in-lieu of taxes and provide Special Source Revenue Credits with respect to the Project and otherwise make available to the Company, and any approved Sponsors Affiliates who join as a part to the Fee Agreement, the benefits intended by the Act and the Infrastructure Credit Act, the specific terms of which are all set forth in the Fee Agreement;

WHEREAS, Lexington County Council (the “County Council”) has caused to be prepared and presented to the County Council the Fee Agreement between the County and the Company, which the County shall execute and deliver;

WHEREAS, it appears that the documents above referred to are appropriate instruments to be executed and delivered or approved by the County for the purposes intended; and

WHEREAS, [insert Sponsor Affiliate I name], and [insert Sponsor Affiliate II name] (“Sponsor Affiliates”) (a) intend to participate in the investment under the Fee Agreement; and (b) will execute with the Company a Joinder Agreement, in a form attached to the Fee Agreement as Exhibit B , and therefore wish to be approved by the County as Sponsor Affiliates, pursuant to Section 12-44-10 of the Act and as further defined in the Fee Agreement.

NOW, THEREFORE, BE IT ORDAINED by the County Council in meeting duly assembled as follows:

Section 1. Pursuant to the Act and particularly Section 12-44-40(H) and (I) thereof, the County Council has made and hereby makes the following findings:

(a) The Project constitutes a “project” as said term is referred to and defined in Section 12-44-30 of the Act;

(b) It is anticipated that the Project will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes;

(d) It is anticipated that the cost of planning, designing, acquiring, constructing and completing the Project will require expenditures that satisfy the minimum investment required under the Act;

(e) The benefits of the Project to the public are greater than the costs to the public;

(f) Neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; and

(g) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

Section 2. In order to promote industry, develop trade and utilize the manpower, agricultural products and natural resources of the State, the form, terms and provisions of the Fee Agreement which is attached hereto and shall be executed and filed with the Clerk to County Council and which comply with the terms of the aforementioned Inducement Resolution are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chair of County Council and the Clerk to County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement to the Company and any Sponsor Affiliate.

Section 3. The County approves the Sponsor Affiliates and their participation in the Fee Agreement as Sponsor Affiliates as contemplated under the Act and the Fee Agreement.

Section 4. The Chair of County Council and the Clerk to County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement in a form substantially identical to the terms contemplated herein and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 5. The consummation of all transactions contemplated by the Fee Agreement are hereby approved.

Section 6. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 8. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

DONE, RATIFIED AND ADOPTED this _____ day of _____, 2015.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat
Chair of Lexington County Council

ATTEST:

By: _____
Diana W. Burnett
Clerk to Lexington County Council

First Reading: July 28, 2015
Second Reading: August 25, 2015
Public Hearing: August 25, 2015
Third Reading: September 22, 2015

Exhibit A

Fee Agreement

[See Attached]

**FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT
BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA
AND
GASTON SOLAR II, LLC**

**DATED AS OF
_____, 2015**

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Exhibit A - Property Description

Exhibit B – Form of Joinder Agreement

FEE AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT ("Fee Agreement") is made and entered into as of [INSERT DATE], 2015, by and between Lexington County, South Carolina ("County"), a body politic and corporate and a political subdivision of the State of South Carolina ("State"), acting by and through the Lexington County Council ("County Council") as the governing body of the County, Gaston Solar II, LLC, a South Carolina limited liability company, authorized to conduct business in South Carolina, along with affiliated or related entities, and assigns, as Sponsor (collectively, "Company") and any other entity that may join as a Sponsor Affiliate as the term is defined in this Agreement (hereinafter, the County, the Company, and any Sponsor Affiliate are referred to individually as a "Party" and, collectively, as "Parties").

WITNESSETH:

WHEREAS, the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (referred to herein as the "Act", which term is further defined in Section 1.3 below), to enter into a Fee Agreement with companies meeting the requirements of such Act which identifies certain property of such companies as economic development property to induce such companies to locate in this State and to encourage companies now located in this State to expand their investments and thus make use of and employ manpower and other resources of this State;

WHEREAS, pursuant to the Act, the County finds that (a) it is anticipated that the Project (as defined herein) will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally; (b) neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project to the public are greater than the costs to the public;

WHEREAS, the Company, as Sponsor, along with one or more existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates (as defined under the Act) that the Sponsor may designate and have the County approve in accordance with the Act, contingent upon satisfaction of certain commitments made by and on behalf of the County, as set forth herein, and, to the extent allowed by law, plans to establish a Project in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment (referred to hereafter as the "Project," which term is further defined in Section 1.3 below), which will result in \$10,000,000 in new investment in real and personal property in the County ("Investment");

WHEREAS, pursuant to an Inducement Resolution dated July 28, 2015 (the "Inducement Resolution") and County Council Ordinance No. [] adopted [insert date], the County considered to enter into a Fee Agreement with the Company which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the Act using an assessment ratio of 6%, a fixed millage rate of 493.548 for 20 years and the grant of special source revenue credits in amounts more fully described herein;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

ARTICLE I

RECAPITULATION AND DEFINITIONS

SECTION 1.1 *Statutorily Required Recapitulation.* Pursuant to Section 12-44-55(B), the County, the Company, and, as applicable, any Sponsor Affiliate agree to waive the recapitulation requirements of Section 12-44-55. If the Company and, as applicable, any Sponsor Affiliate should be required to retroactively comply with the recapitulation requirements of Section 12-44-55, then the County agrees to waive all penalties and fees of the County for the Company's and, as applicable, any Sponsor Affiliate's noncompliance.

SECTION 1.2 *Rules of Construction; Use of Defined Terms.* Unless the context clearly indicates otherwise, in this Fee Agreement words and terms defined in Section 1.3 hereof are used with the meanings ascribed thereto. The definition of any document shall include any amendments to that document, unless the context clearly indicates otherwise.

SECTION 1.3 *Definitions.*

“Act” means Title 12 Chapter 44, Code of Laws of South Carolina 1976, as in effect on the date hereof and, to the extent such amendments are specifically made applicable to this Fee Agreement or the Project, as the same may be amended from time to time; provided that if any such amendment shall be applicable only at the option of the County or the Company, or, as applicable, any Sponsor Affiliate then such amendment shall only be applicable with the consent or at the request of the Company.

“Applicable Governmental Body” means each governmental entity within the State having jurisdiction over or the right to approve or disapprove any or all of the Documents.

“Chair” means the Chair of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Chair).

“Clerk” means the Clerk of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Clerk).

“Commencement Date” means the earlier of: (a) the last day of the first property tax year during which Economic Development Property (defined below) is placed in service; or (b) the last day of the property tax year that is three years from the year in which the Parties entered into this Fee Agreement.

“Company” means Gaston Solar I, LLC.

“County Council” means the County Council of the County.

“County” means **Lexington County, South Carolina**, and its successors and assigns.

“Documents” means the Ordinance and this Fee Agreement.

“DOR” means the South Carolina Department of Revenue and any successor thereto.

“Economic Development Property” means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to this Fee Agreement, and which are identified by the Company and, as applicable, any Sponsor Affiliate in

connection with its annual filing of a DOR PT-300 or comparable forms with DOR (as such filing may be amended from time to time) for each year within the Investment Period, as that period may be extended by subsequent, formal action of County Council, or automatically as permitted under the Act or under this Fee Agreement. Title to all Economic Development Property shall at all times remain vested in the Company and, as applicable, in any Sponsor Affiliate, except as may be necessary to take advantage of the effect of Section 12-44-160 of the Act.

“Equipment” means all machinery, apparatus, equipment, fixtures, office facilities, furnishings and other personal property together with any and all additions, accessions, replacements and substitutes thereto or therefor acquired by the Company and, as applicable, any Sponsor Affiliate, during the Investment Period as a part of the Project under this Fee Agreement. The Equipment and its constituent parts together with any and all improvements or other features constructed on, or personal property installed or placed on the Real Property by or for the Company, or, as applicable, any Sponsor Affiliate, including without limitation, machinery, fixtures, trade fixtures, racking, inverters, cables, solar panels, and other personal property are personal property within the meaning of Article 9 regardless of the manner of attachment to the Real Property.

“Event of Default” shall mean any Event of Default specified in Section 9.1 of this Fee Agreement.

“Fee Agreement” means this Fee Agreement dated as of _____, 2015, between the County and the Company and any future amendments hereto.

“Fee Term” shall mean the duration of this Fee Agreement with respect to each Stage of the Project as specified in Section 5.5 hereof.

“FILOT” means fee in lieu of *ad valorem* tax(es).

“Improvements” mean improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company and, as applicable, the Sponsor Affiliate, during the Investment Period as part of the Project.

“Inducement Resolution” shall mean the Resolution of the County Council adopted on July 28, 2015, committing the County to enter into the Fee Agreement.

“Infrastructure Credit Act” shall mean Sections 4-1-175, 4-29-68 and 12-44-70 of the Code, which when taken together provide for certain credits against Payments-in-Lieu-of-Taxes.

“Contractual Investment” shall mean Ten Million (\$10,000,000.00) Dollars and shall include but not be limited to (i) taxable expenditures, without regard to depreciation, which are made by the Company and any Sponsor Affiliate towards or for the benefit of the Project; (ii) capital expenditures, without regard to the depreciation, which are made by the Company and any Sponsor Affiliate towards or for the benefit of the Project, regardless of the source of payment of such expenditures; (iii) the value of any assets leased by the Company and any Sponsor Affiliate, without regard to the depreciation, regardless of the source of payment of such expenditures so long as the value of such leased assets are reported by the Company and any Sponsor Affiliate on their respective DOR PT-300; and (iv) any other expenditures made by the Company and any Sponsor Affiliate that the County and the Company and, as applicable, any Sponsor Affiliate, may mutually agree upon in a writing that is executed by an authorized representative of the Company and the County Administrator. The Investment for purposes of the

Investment stated herein shall include those expenditures made by both the Company and any Sponsor Affiliate prior to the end of the Investment Period.

“Investment Period” shall mean the period beginning with the first day that economic development property is purchased or acquired and ending on the last day of the fifth property tax year following the Commencement Date, subject to an extension for such period as provided in Section 3.2(b) hereof. The Investment Period is anticipated to end December 31, 2020.

“Minimum Investment” shall have the meaning given to such term under Section 12-44-30(14) of the Act.

“Ordinance” means the Ordinance adopted by the County on _____, 2015, authorizing this Fee Agreement.

“Payments-in-Lieu-of-Taxes” means the payments to be made by the Company and, as applicable, any Sponsor Affiliate pursuant to Section 5.1 of this Agreement.

“Project” shall include the Equipment, Improvements, and Real Property together with the acquisition, lease, construction, installation, design and engineering thereof.

“Real Property” means the real property upon which any part of the Project is to be constructed and expanded, as described in Exhibit A attached hereto and as supplemented from time to time, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company and, as applicable, any Sponsor Affiliate; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Stages of the Project or portions thereof, all of which the Company and, as applicable, any Sponsor Affiliate, as the case may be, shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Stages of the Project or portions thereof which the Company and, as applicable, any Sponsor Affiliate, in their sole discretion, determine to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Stages of the Project or portions thereof which the Company and, as applicable, any Sponsor Affiliate, in their sole discretion, elect to remove pursuant to this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and, as applicable, any Sponsor Affiliate and treated as a Removed Component under Section 5.1 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement so long as the replacement property maintains the viability of the Project.

“Sponsor Affiliate” means an affiliate that joins with or is an affiliate of the Company, or that otherwise has a contractual relationship with the Company in respect of the Project, whose Investment with respect to the Project shall be considered part of the Investment and qualify for Payments-in-Lieu of Taxes pursuant to Section 5.1 hereof and Sections 12-44-30(A) and 12-44-130 of the Act and who joins and delivers a Joinder Agreement in a form substantially similar to that attached hereto as Exhibit B.

“Stage” or “Stages” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period, as extended.

“Stage Termination Date” means with respect to each Stage of the Project the day nineteen years after each such Stage of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Stage Termination Date shall be no later than December 31 of the year of the expiration of the nineteenth full calendar year, after the Commencement Date.

“State” means the State of South Carolina.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II

LIMITATION OF LIABILITY; INDUCEMENT

SECTION 2.1 *Limitation of Liability.* Any obligation which the County may incur for the payment of money as a result of the transactions described in the Documents shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under the Documents.

SECTION 2.2 *Inducement.* The County, the Company and, as applicable, any Sponsor Affiliate acknowledge that pursuant to the Act, upon execution of this Fee Agreement, no part of the Project will be subject to ad valorem property taxation in the State, and that this factor, among others, has induced the Company and, as applicable, any Sponsor Affiliate to enter into or join this Fee Agreement.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 3.1 *Representations and Warranties of the County.* The County makes the following representations and warranties to the Company and, as applicable, any Sponsor Affiliate and covenants with the Company and, as applicable, any Sponsor Affiliate as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the Act to execute the Documents to which it is a party and to fulfill its obligations described in the Documents. By proper action, the County Council has duly authorized the execution and delivery of the Documents to which the County is a party and has taken all such action as is necessary to permit the County to enter into and fully perform the transactions required of it under the Documents.

(b) Neither the execution and delivery of the Documents, nor the consummation and performance of the transactions described in the Documents, violate, conflict with or will result in a breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the County is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the County, wherein an unfavorable decision, ruling or finding may or would materially affect the County's obligations hereunder or the consummation of the transactions described in the Documents.

(d) Neither the existence of the County nor the rights of any members of County Council to their offices is being contested and none of the proceedings taken to authorize the execution, delivery and performance of such of the Documents as require execution, delivery and performance by the County has been repealed, revoked, amended or rescinded.

(e) All consents, authorizations and approvals required on the part of the County, State and all other Applicable Governmental Bodies in connection with the execution, delivery and performance by the County of such of the Documents as require execution, delivery and performance by the County have been obtained and remain in full force and effect as of the date hereof or will be obtained.

(f) The Project constitutes a "project" within the meaning of the Act.

(g) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of property comprising the Project shall be considered economic development property under the Act.

(h) The Documents to which the County is a party are (or, when executed, will be) legal, valid and binding obligations of the County enforceable against the County under present law in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

SECTION 3.2 Covenants by the County. The County covenants with the Company and, as applicable, any Sponsor Affiliate as follows:

(a) The County agrees to do all things deemed reasonably necessary as requested by the Company or, as applicable, any Sponsor Affiliate in writing in connection with the Project including but not limited to the execution, delivery and performance of its obligations in the Documents and in accordance with the Act, all for the purposes of promoting industrial development, developing trade, and utilizing and employing the manpower and natural resources of the County and the State. Except as reasonably believed to be required by the County in the performance of its duties under statute or law, the County will take no action with respect to the Project unless authorized or requested to do so by the Company or, as applicable, any Sponsor Affiliate.

(b) Upon receipt of written request from the Company, or, as applicable, any Sponsor Affiliate, the County agrees to consider any request the Company, or, as applicable, any Sponsor Affiliate may make for an extension of the Investment Period in accordance with and up to the limits permitted under Section 12-44-30(13) of the Act. Such extension may be provided by a resolution of County Council. Upon the granting of any such extension the County agrees to cooperate with the Company and, as applicable, any Sponsor Affiliate by filing with the DOR a copy of such extension within 30 days of the date of execution thereof by the County. Such extension may be provided by a resolution of County Council.

SECTION 3.3 *Representations and Warranties of the Company.* The Company makes the following representations and warranties to the County:

(a) The Company is a limited liability company authorized to transact business in South Carolina. The Company has full corporate power to execute the Documents to which it is a party and to fulfill its obligations described in the Documents and, by proper corporate action, has authorized the execution and delivery of the Documents to which it is a party.

(b) Neither the execution and delivery of the Documents to which the Company is a party, nor the consummation and performance of the transactions described in the Documents violate, conflict with, or will, to its knowledge, result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the Company is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the Company wherein an unfavorable decision, ruling or finding would adversely affect the Company or the consummation of the transactions described in the Documents.

(d) All consents, authorizations and approvals required on the part of the Company in connection with the Documents and the transactions contemplated thereby and the acquisition, construction and installation of the Project have been obtained and remain in full force and effect or will be obtained.

(e) The Documents to which the Company is a party are (or, when executed, will be) legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

(f) The cost of the Project shall result in a minimum investment of real and personal property of \$10,000,000.

ARTICLE IV

COMMENCEMENT AND COMPLETION OF THE PROJECT

SECTION 4.1 The Project. The Company and, as applicable, any Sponsor Affiliate plans to establish a facility for the production of renewable energy in the County through the acquisition, lease, construction and purchase of certain land, buildings, furnishings, fixtures, apparatuses, and equipment.

Pursuant to the Act, the Company and, as applicable, any Sponsor Affiliate and the County hereby agree that the property comprising the Project shall be Economic Development Property so long as such property meets the requirements of the Act.

SECTION 4.2 *Diligent Completion.* The Company and, as applicable, any Sponsor Affiliate agrees to use its reasonable efforts to cause the acquisition, lease, construction and installation of the Project to be completed; however, notwithstanding anything contained in this Fee Agreement to the contrary, the Company and, as applicable, any Sponsor Affiliate shall not be obligated to complete the acquisition of the Project and may terminate this Agreement with respect to all or portion of the Project as set forth in Article X herein.

SECTION 4.3 *Modifications to Project.* The Company and, as applicable, any Sponsor Affiliate may make or cause to be made from time to time any additions, modifications or improvements to the Project that it may deem desirable for its business purposes.

ARTICLE V

PAYMENTS-IN-LIEU-OF-TAXES; DISPOSITION OF PAYMENTS-IN-LIEU-OF-TAXES

SECTION 5.1 *Payments-in-Lieu-of-Taxes.* The parties acknowledge that under Article I, Section 3 of the South Carolina Constitution, the Project is exempt from ad valorem property taxes assuming a Fee Agreement is signed and such portion of the Project constitutes Economic Development Property. However, the Company and, as applicable, any Sponsor Affiliate shall be required to make the Payments-in-Lieu-of-Taxes with respect to such portions of the Project constituting Economic Development Property as provided in this Section 5.1. In accordance with the Act, and unless this Fee Agreement is sooner terminated, the Company and, as applicable, any Sponsor Affiliate shall make annual Payments-in-Lieu-of-Taxes with respect to those portions of the Project constituting Economic Development Property, said payments being due and payable and subject to penalty assessments in the manner prescribed by the Act. Such amounts shall be calculated and payable as follows:

(a) The Company and, as applicable, any Sponsor Affiliate has agreed to make annual Payments-in-Lieu-of-Taxes with respect to the Economic Development Property comprising the Project in an amount equal to the property taxes that would be due with respect to such property, if it were taxable, but using an assessment ratio of 6% and a millage rate of 493.548, the initial twenty (20) payments of which shall be reduced as described in Section 5.1(b) herein.

Subject in all events to the provisions of the Act, the fair market value estimate determined by the DOR will be as follows:

- (i) for real property, using the original income tax basis for South Carolina income tax purposes without regard to depreciation; provided, however, if real property is constructed for the fee or is purchased in an arm's length transaction, fair market value equals the original income tax basis; otherwise, the DOR will determine fair market value by appraisal; and
- (ii) for personal property, using the original income tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes, except that the Company and, as applicable, any Sponsor Affiliate is not entitled to extraordinary obsolescence.

Should the Company along with any Sponsor Affiliate fail to invest at least \$5,000,000 by December 31, 2020, the Chair of County Council shall meet with an appropriate Company official to discuss the Company's investment and the potential reversion of the payments in lieu of ad valorem taxes due under this Fee Agreement to payments that would have resulted from ad valorem taxes levied on the Project.

Should the Company and any Sponsor Affiliate invest \$5,000,000 but less than the Contractual Investment by December 31, 2020, then the assessment ratio applicable to the Project under Section 5.1(a) hereof shall, prospectively but not retroactively, be increased from 6% to 8%.

Should the Company and any Sponsor Affiliate invest at least the Contractual Investment by December 31, 2020, there shall be no adjustment in the calculation of the Payments-in-Lieu-of-Taxes.

(b) The Payments-in-Lieu-of-Taxes must be made on the basis that the Project property, if it were otherwise subject to *ad valorem* property taxes, would be allowed all applicable exemptions from

those taxes, except for the exemptions allowed under Section 3(g) of Article X of the South Carolina Constitution and Section 12-37-220(B)(32) and (34) of the Code of Laws of South Carolina, as amended.

(c) The Company and, as applicable, any Sponsor Affiliate shall make Payments-in-Lieu-of-Taxes for each year during the Term hereof beginning in connection with the property tax year following the Commencement Date. The Payments-in-Lieu-of-Taxes shall be made to the County Treasurer on the due dates which would otherwise be applicable for ad valorem property taxes for the Project,.

(d) Any Economic Development Property placed in service as part of the Project during the Investment Period shall be included in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, for a period not exceeding 20 years following the year in which such property was placed in service.

(e) Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, but only up to the original income tax basis of property which is being disposed of in the same property tax year. Replacement Property shall be deemed to replace the oldest property subject to the fee which is disposed of in the same property tax year that the Replacement Property is placed in service. More than one piece of property can replace a single piece of property. Replacement Property does not have to serve the same function as the property it is replacing.

(f) In the event that the Act and/or the above-described Payments-in-Lieu-of-Taxes or Special Source Revenue Credits (pursuant to Section 5.2 herein) are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company and any Sponsor Affiliate, with the benefits to be derived hereunder. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company and, as applicable, any Sponsor Affiliate, shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company, and, as applicable, any Sponsor Affiliate, as the case may be, with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company and, applicable, any Sponsor Affiliate, to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company, and, as applicable, any Sponsor Affiliate, with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law.

SECTION 5.2 *Special Source Revenue Credit.* As an inducement for the Investment and in accordance with Section 12-44-70 of the Act, the County grants to the Company and any Sponsor Affiliate a Special Source Revenue Credit (“SSRC”) equal to ten percent (10%) of the value of the annual Payments-in-Lieu-of-Taxes due for property tax years one (1) through ten (10) (the “Credit Period”) beginning with the first property tax year for which a Payment-in-Lieu-of-Taxes becomes due. If, as of the end of the Investment Period, the Contractual Investment Amount is not met, the SSRC shall terminate prospectively for the remainder of the Credit Period.

With respect to the SSRC, the County shall automatically reflect the SSRC against the Payment-in-Lieu-of-Taxes on those invoices provided by the County to the Company and any Sponsor Affiliate. The Company and any Sponsor Affiliate shall be permitted to utilize the SSRC to offset any qualifying expenditures as provided under the Code, including under the Act and the Infrastructure Credit Act.

[PLACEHOLDER FOR SSRC REPAYMENT AND TERMINATION PARAGRAPH TO BE INSERTED PRIOR TO THIRD READING]

SECTION 5.3 *Disposal and Removal of Property; Replacement Property.*

(a) In any instance where the Company and, as applicable, any Sponsor Affiliate, in their sole discretion determine that any item or items of property included in the Project have become, in whole or in part, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company and, as applicable, any Sponsor Affiliate may remove such item (or such portion thereof as the Company and, as applicable, any Sponsor Affiliate shall determine) or items and sell, trade in, exchange or otherwise dispose of it or them (as a whole or in part) without any responsibility or accountability to the County therefor. The loss or removal from the Project of any property, or any portion thereof, as a result of fire or other casualty or by virtue of the exercise or threat of the power of condemnation or eminent domain shall be deemed to be a disposal of such property, or portion thereof, pursuant to this Section 5.3. Subject to the provisions of Section 5.1(e) and this Section 5.3 with respect to Replacement Property, the Payments-in-Lieu-of-Taxes required by Section 5.1 hereof shall be reduced by the amount thereof applicable to any property included in the Project, or part thereof, disposed of, or deemed disposed of, pursuant to this Section 5.3. In the event that such disposal or removal (without replacement) reduces the Company's and, as applicable, any Sponsor Affiliate's gross investment below \$10,000,000, then the Project shall revert to ad valorem taxation and this agreement shall terminate pursuant to Section 12-44-140 of the Act except that at the request of the Company the County Council may elect to amend this Fee Agreement to allow for the continuation of the benefits or some modification thereof in connection with the Project.

(b) The Company and, as applicable, any Sponsor Affiliate may, in their sole discretion, replace, renew or acquire and/or install other property in substitution for, any or all property or portions thereof disposed of, or deemed disposed of, pursuant to Section 5.3(a) hereof. Any such property may, but need not, serve the same function, or be of the same utility or value, as the property being replaced. Absent a written election to the contrary made at the time of filing the first property tax return that would apply to such property, such property shall be treated as Replacement Property.

SECTION 5.4 *Leased Equipment.* To the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of Payments-in-Lieu-of-Taxes as described in Section 5.1 hereof, to be applicable to personal property to be installed at the Project and leased to but not purchased by the Company and, as applicable, any Sponsor Affiliate, from at least one third party, under any form of lease, then that personal property, at the Company's or Sponsor Affiliates' sole election, will become subject to Payments-in-Lieu-of-Taxes to the same extent as the Equipment under this Fee Agreement, upon proper application of the law and applicable procedures by the Company, and, as applicable, any Sponsor Affiliate and so long as the value of such leased assets are reported by the Company or any Sponsor Affiliate, as applicable, on their respective DOR PT-300.

SECTION 5.5 *Fee Term.* The applicable term of this Fee Agreement shall be measured for each Stage beginning from the last day of the property tax year in which the Project is placed in service in that Stage through the last Stage Termination Date; provided, that the maximum term of this Fee Agreement shall not be more than 20 years from the end of the last year of the Investment Period.

This Fee Agreement shall terminate with respect to the Project or any Stage or part thereof upon the earlier to occur of (a) payment of the final installment of Payments-in-Lieu-of-Taxes pursuant to Section 5.1 hereof, or (b) exercise by the Company and, as applicable, any Sponsor Affiliate of their option to terminate pursuant to Section 10.1 hereof.

SECTION 5.6 *Minimum Investment.* If the Company, together with any Sponsor Affiliate, has not invested the Minimum Investment at the Project, then the Project shall revert retroactively to ad valorem taxation and the Company or, as applicable, any Sponsor Affiliate shall, within ~~180~~ 90 days of the end of the Investment Period, make payment to the County of the difference between the Payments-in-Lieu-of-Taxes actually made and the total retroactive amount referred to in this Section, provided that the Company and any Sponsor Affiliate shall be entitled to any statutory abatements that otherwise would have been afforded had the Project not been receiving the benefits set forth under this Fee Agreement.

SECTION 5.7 *Damage or Destruction of Project.*

(a) *Election to Terminate.* Subject to the provisions herein for failure to meet the Contractual Investment required in Section 5.1, in the event the Project is damaged by fire, explosion, or any other casualty, the Company and, as applicable, any Sponsor Affiliate, shall be entitled to terminate this Fee Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company and, as applicable, any Sponsor Affiliate, do not elect to terminate this Fee Agreement, the Company and, as applicable, any Sponsor Affiliate may, in their sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company and, as applicable, any Sponsor Affiliate. All such restorations and replacements shall be considered substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due by the Company and, as applicable, any Sponsor Affiliate, to the County under Section 5.1 hereof, to the extent allowed by the Act.

(c) *Election to Remove.* Subject to the provisions as to disposal or removal in section 5.3, in the event the Company and, as applicable, any Sponsor Affiliate, elect not to terminate this Fee Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

SECTION 5.8 *Condemnation.*

(a) *Complete Taking.* If, at any time during the Fee Term, title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued operation of the Project commercially infeasible in the judgment of the Company and, as applicable, any Sponsor Affiliate, then the Company or any Sponsor Affiliate (with respect to its Project property only) shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking.* In the event of a partial taking of the Project or transfer in lieu thereof, the Company and, as applicable, any Sponsor Affiliate, may elect: (i) to terminate this Fee Agreement (with respect to its Project property only); (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company and, as applicable, any Sponsor Affiliate; or (iii) to treat the portions of the Project so taken as Removed Components.

SECTION 5.9 *Maintenance of Existence.* The Company and, as applicable, any Sponsor Affiliate agree (i) that they shall not take any action which will materially impair the maintenance of their corporate existence and (ii) that they will maintain their good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the corporate existence of the Company or, as applicable, any Sponsor Affiliate, that result from internal restructuring or reorganization of the Company or, as applicable, any Sponsor Affiliate, or their parents are specifically authorized hereunder; and further, subject to requirement to achieve the Minimum Investment, the Company and, as applicable, any Sponsor Affiliate are entitled to cease operations of the Project at any time without that cessation constituting an Event of Default under this Fee Agreement. Likewise, benefits granted to the Company and, as applicable, any Sponsor Affiliate, under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 8.2 hereof. Such transfers to a successor entity substantially similar in nature and function to the Company and, as applicable, any Sponsor Affiliate, are specifically approved and authorized by the County without any further action by the County Council.

SECTION 5.10 *Confidentiality/Limitation on Access to Project.* The County acknowledges and understands that the Company and, as applicable, any Sponsor Affiliate, utilize confidential and proprietary “state-of-the-art” information and data in their operations, and that a disclosure of any information, including, but not limited to, disclosures of financial or other information concerning the Company’s operations and, as applicable, any Sponsor Affiliate’ operations, could result in substantial harm to them and could thereby have a significant detrimental impact on their employees and also upon the County. Therefore, the County agrees that, except as required by law and pursuant to the County’s police powers, neither the County nor any employee, agent or contractor of the County: (i) shall request or be entitled to receive any such confidential or proprietary information; (ii) shall request or be entitled to inspect the Project or any property associated therewith; provided, however, that if an Event of Default shall have occurred and be continuing hereunder, the County shall be entitled to inspect the Project provided they shall comply with the remaining provisions of this Section; or (iii) shall knowingly and intentionally disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law. Notwithstanding the foregoing, whenever the County shall be required by any governmental or financial entity to file or produce any reports, notices, returns or other documents while the Fee Agreement is in effect, the Company or owner of the Project at the time shall promptly furnish to the County through the County Attorney the completed form of such required documents together with a certification by the Company or owner that such documents are accurate and not in violation of any provisions of law or of the other documents of this transaction, and that the documents meet the legal requirements of such filing or delivery. In the event of the failure or refusal of the Company or owner to comply with this provision, the Company or owner agrees to pay the statement for attorneys fees and administrative time presented by the County for producing and filing such documents, such statement to be paid within thirty (30) days after presentation by the County, and to promptly pay any fees, penalties, assessments or damages imposed upon the County by reason of its failure to duly file or produce such documents. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Company and, as applicable, any Sponsor Affiliate, may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

SECTION 5.11 *Addition of Sponsor Affiliates.* Upon request of and at the expense of the Company, the County may approve any future Sponsor Affiliate that qualifies under the Act for the benefits offered under this Fee Agreement and which agrees to be bound by the provisions hereof to be

further evidenced by such future Sponsor Affiliate entering into a Joinder Agreement in the form attached to this Fee Agreement subject to any changes approved by the Chair that are not materially adverse to the County.

SECTION 5.12 *Certification of Investment.* The Company and, as applicable, any Sponsor Affiliate shall submit by April 30 of each year of the Investment Period to the County Auditor and County Economic Development Director documentation certifying its Investment for the preceding property tax year, with the first certification anticipated to be due April 30, 2017. Should the Company fail to such certification on April 30 following each year of the Investment Period, the County may choose to terminate this Agreement upon written notice of default to the Company by the County and the expiration of a 30-day cure period.

ARTICLE VI

PROPERTY TAX EXEMPTION AND ABATEMENT

SECTION 6.1 *Protection of Tax Exempt Status of the Project.* In order to insure that the Project is not and will not become subject to ad valorem property taxes under the laws of the State of South Carolina or any political subdivision thereof, the County and the Company and, as applicable, any Sponsor Affiliate covenant that:

(a) all right and privileges granted to either party under this Fee Agreement or any other Documents shall be exercised so that if any conflict between this Section and any other provision in any document shall arise, then in that case, this Section shall control;

(b) the County and the Company and, as applicable, any Sponsor Affiliate have not knowingly committed or permitted and will not knowingly commit or permit (as to any act over which either has control) any act which would cause the Project to be subject to ad valorem property taxes by the County or political subdivision of the State in which any part of the Project is located; and

(c) the Company and, as applicable, any Sponsor Affiliate will maintain the identity of the Project as a "project" in accordance with the Act.

ARTICLE VII

EFFECTIVE DATE

SECTION 7.1 *Effective Date.* This Fee Agreement shall become effective upon its execution and delivery by the parties hereto unless a date is specified herein.

ARTICLE VIII

SPECIAL COVENANTS

SECTION 8.1 *Indemnification Covenants.* (a) The Company and, as applicable, any Sponsor Affiliate shall and agrees to hold the County and its County Council members, officers, agents and employees harmless from all pecuniary liability in connection with those reasons set forth in (i) or (ii) of Section 8.1(b) and to reimburse them for all reasonable expenses to which any of them might be subject due to the approval and entering into of the Documents or the fulfillment of their obligations under this Fee Agreement in the implementation of its terms and provisions.

(b) Notwithstanding the fact that it is the intention of the parties that neither the County nor any of its members, officers, agents and employees shall incur any pecuniary liability to any third-party (i) by reason of the terms of this Fee Agreement or the undertakings of the County required hereunder, or (ii) by reason of the performance of any act in connection with the entering into and performance of the transactions described in the Documents, if the County or any of its members, officers, agents or employees should incur any such pecuniary liability, then, in that event the Company and, as applicable, any Sponsor Affiliate shall indemnify and hold harmless the County and its members, officers, agents and employees against all pecuniary claims by or on behalf of any person, firm or Company, arising out of the same, and all costs and expenses incurred in connection with any such claim, and upon notice from the County, the Company and, as applicable, any Sponsor Affiliate at their own expense shall defend the County and its officers, agents and employees in any such action or proceeding.

(c) Notwithstanding the foregoing, the Company and, as applicable, any Sponsor Affiliate shall not be obligated to indemnify the County or any of its individual members, officers, agents and employees for expenses, claims, losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual officers, agents or employees.

SECTION 8.2 *Assignment and Leasing.* The County agrees to consent, to the maximum extent allowed by the Act, for financing purposes, to: (a) any sale, transfer, disposition or assignment of the Fee Agreement, whether in whole or in part, by the Company or, as applicable, any Sponsor Affiliate or any transferee or assignee; (b) the transfer or assignment of security or other interests in any or all of the Company's or, as applicable, any Sponsor Affiliate's interests in the property subject to the Fee Agreement; or (c) the sublease of any property subject to the Fee Agreement. The County further agrees that, if future County consent is required by the Act, the County Council can provide any such consent by a resolution of County Council. The County Administrator and the Clerk to County Council are hereby expressly individually and jointly authorized and directed to evidence the County's consent by timely executing such documents as the Company and, as applicable, any Sponsor Affiliate may reasonably request. Further, for the purposes of this Fee Agreement and as noted in Article 5 herein, a transaction or an event of sale, assignment, leasing, transfer of an interest herein, disposal, or replacement of all or part of the Project shall not be a termination of the Fee Agreement in whole or in part or a basis for changing the fee payments due under Section 12-44-50 of the Act.

ARTICLE IX

EVENT OF DEFAULT AND REMEDIES

SECTION 9.1 *Events of Default Defined.* The occurrence of any one or more of the following events shall be an "Event of Default" under this Fee Agreement:

(a) If the Company shall fail to make any Payment-in-Lieu-of-Taxes or any other amount required under this Fee Agreement and such failure shall continue for 30 days after receiving written notice of default from the County; or

(b) If the Company or the County shall fail to observe or perform any covenant, condition or agreement required herein to be observed or performed by the Company or the County (other than as referred to in Section 9.1(a) hereof), and such failure shall continue for a period of 30 days after written notice of default has been given to the Company and by the County or to the County by the Company; provided if by reason of "force majeure" as hereinafter defined the Company or the County is unable in whole or in part to carry out any such covenant, condition or agreement or if it takes longer than 30 days to cure such default and the Company or the County is diligently attempting to cure such default, there

shall be no Event of Default during such inability. The term “force majeure” as used herein shall mean circumstances not reasonably within the control of the parties, such as without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company or the County made in the Documents, or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

SECTION 9.2 Remedies on Default. Whenever any Event of Default shall have happened and be subsisting the County, after having given written notice to the Company of such default and after the expiration of a thirty (30) day cure period, may take whatever action at law or in equity may appear legally required or necessary or desirable to collect the payments and other amounts then due or to enforce performance and observance of any obligation, agreement or covenant of the Company under the Documents, including the right to terminate this Fee Agreement, except that the sole remedy with regard to Sections 5.1 and 5.2 is set forth therein. Although the parties acknowledge that the Project is exempt from ad valorem property taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, exercise the remedies provided by general law (Title 12, Chapter 49 and Title 12, Chapter 51) and the Act relating to the enforced collection of taxes.

SECTION 9.3 No Additional Waiver Implied by One Waiver. In the event any warranty, covenant or agreement contained in this Fee Agreement should be breached by the Company or the County and thereafter waived by the other party to this Fee Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

ARTICLE X

OPTION OF THE COMPANY

SECTION 10.1 Option to Terminate. From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days notice, the Company may terminate this Fee Agreement with respect to the entire Project or any portion thereof. Upon termination of all or part of this Fee Agreement, the Company and, as applicable, any Sponsor Affiliate will become liable for ad valorem property taxes on the Project or such portion thereof beginning with the property tax year following such termination.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1 Notices. All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by facsimile or certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 11.1:

If to the Company: Elizabeth Ferrell

Sr. Corporate Counsel
Cypress Creek Renewables, LLC
3250 Ocean Park Blvd., Ste 355
Santa Monica, CA 90405

WITH A COPY TO:
(shall not constitute notice)

Parker Poe Adams & Bernstein LLP
ATTN: Sam C. Moses, Esquire
1201 Main Street, Suite 1450
Columbia, South Carolina 29202
Telephone: (803) 255-8000
Facsimile: (803) 255-8017
Email: sammoses@parkerpoe.com

If to the County: Lexington County Council, South Carolina
212 South Lake Drive
Lexington, SC 29072
Attention: Clerk to Council
Facsimile: 803-785-8101

With A Copy To: Jeffrey M. Anderson
Davis | Frawley, LLC
140 E. Main Street
P.O. Box 489
Lexington, SC 29071-0489
Facsimile: 803-359-7478

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; (2) by facsimile, 24 hours after confirmed transmission or dispatch; and (3) by certified mail, 3 business days after delivery to the U.S. Postal authorities by the party serving notice.

SECTION 11.2 *Binding Effect.* This Fee Agreement shall inure to the benefit of and shall be binding upon the County and the Company and, as applicable, any Sponsor Affiliate and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

SECTION 11.3 *Invalidity and Severability.* In the event any provision of this Fee Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Fee Agreement, unless that decision destroys the basis for the transaction, in which event the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company and, as applicable, any Sponsor Affiliate hereunder by either restructuring or reconstituting this Fee Agreement under any then applicable law, including but not limited to Chapter 20 of Title 4 and Chapter 12 of Title 4, Code of Laws of South Carolina, as amended.

SECTION 11.4 *Payments Due on Saturday, Sunday and Holidays.* Whenever any payment to be made hereunder shall be stated to be due on a Saturday, a Sunday or a holiday, such payment shall be made on the next business day.

SECTION 11.5 *Payment of Administrative Expenses.* The Company and, as applicable, any Sponsor Affiliate will pay all reasonable costs of the County, including attorney's fees, incurred in connection with the authorization, execution and delivery of this Fee Agreement, in an amount not to exceed \$[_____].

SECTION 11.6 *Fiscal Year; Property Tax Year.* If the Company's and, as applicable, any Sponsor Affiliate's fiscal year changes in the future so as to cause a change in the Company's and, as applicable, any Sponsor Affiliate's property tax year, the timing of the requirements set forth in this Fee Agreement shall be revised accordingly.

SECTION 11.7 *Amendments, Changes and Modifications.* Except as otherwise provided in this Fee Agreement, this Fee Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company and, as applicable, any Sponsor Affiliate. To the maximum extent allowed by law, any such County consent may be provided by a resolution of County Council.

SECTION 11.8 *Execution of Counterparts.* This Fee Agreement may be executed in several counterparts, only one of which shall be an original for Uniform Commercial Code perfection purposes; provided, however, that any action may be brought upon any counterpart of this Fee Agreement or any counterpart of any document that is attached to this Fee Agreement as an exhibit.

SECTION 11.9 *Law Governing Construction of Agreement.* The laws of the State of South Carolina shall govern the construction of this Fee Agreement.

SECTION 11.10 *Filings.* Whenever the County shall be required to file or produce any reports, notices or other documents during the Fee Term in connection with the Project or the Documents, the Company and, as applicable, any Sponsor Affiliate shall in due time furnish to the County the completed form of such report, notice or other required documents, subject to the provisions of Section 5.10 herein, together with a certification by the Company and, as applicable, any Sponsor Affiliate that such document is accurate.

SECTION 11.11 *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

SECTION 11.12 *Further Assurance.* From time to time the County agrees to execute and deliver to the Company and, as applicable, any Sponsor Affiliate such additional instruments as the Company may reasonably request to effectuate the purposes of this Fee Agreement.

IN WITNESS WHEREOF, LEXINGTON COUNTY, SOUTH CAROLINA, and the COMPANY, each pursuant to due authority, have duly executed this Fee Agreement, all as of the date first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat
Chair of Lexington County Council

ATTEST:

Diana W. Burnett
Clerk, Lexington County Council

GASTON SOLAR II, LLC

By: _____

Its: _____

EXHIBIT A

PROPERTY DESCRIPTION

A leased parcel with easements for access and utilities, located in County of Lexington, State of South Carolina, as a portion of parcel more commonly known as tax map number Numbers 011900-02-036 and 01190-02-035 and more specifically described in deed book 3294 page 013 in Lexington County, State of South Carolina, Register of Deeds office.

EXHIBIT B
JOINDER AGREEMENT
[to be provided]

Ordinance No. 15-11

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE INCENTIVE AGREEMENTS BY AND AMONG LEXINGTON COUNTY, SOUTH CAROLINA, AND OMP MECHTRON, LLC, AND ONE OR MORE EXISTING OR TO-BE-FORMED OR ACQUIRED SUBSIDIARIES, OR AFFILIATED OR RELATED ENTITIES, TO PROVIDE FOR SPECIAL SOURCE REVENUE CREDITS; AUTHORIZING THE EXPANSION OF THE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK FORMED WITH CALHOUN COUNTY TO INCLUDE THE PROJECT; TO PROVIDE FOR THE ADDITION OF ONE OR MORE PROJECT AFFILIATES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Lexington County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized by Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, including Section 4-1-175 thereof, Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (collectively, the “Infrastructure Credit Act”), and Article VIII, Section 13 of the South Carolina Constitution to provide special source revenue credits for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the project and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County;

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has created previously a multi-county park with Calhoun County (“Park”) pursuant to that Agreement for Development of Joint County Industrial Park” dated December 11, 1995, as amended (“Park Agreement”);

WHEREAS, OMP Mechtron, LLC, a South Carolina limited liability company, its affiliated and related entities and assigns (“Company”), along with any other party that may join as a Project Affiliate (as that term is defined in the Infrastructure Credit Agreement (defined below)), is planning an investment consisting of the expenditure of approximately \$2,950,000 (“Investment”) along with the creation of approximately 20 new, full-time jobs (“Jobs”) through the acquisition, construction, lease and purchase of certain land, buildings, furnishings, fixtures and equipment in order to expand its electronic equipment manufacturing facility within the County (“Project”);

WHEREAS, Branning Property Management, LLC, a South Carolina limited liability company (“Branning”) currently owns an approximately 20,000 square foot building, and the parcel upon which it sits, located at 4335 Augusta Highway, Gilbert, South Carolina, a description of which is more fully set forth on the attached **Exhibit A** (“Project Site”);

WHEREAS, the Company plans to lease the Project Site from Branning for the purpose of undertaking the Project in the County;

WHEREAS, pursuant to Section 3(A) of the Park Agreement, the boundaries of the park created therein (the “Park”) may be enlarged pursuant to agreement of the County Councils of Lexington County and Calhoun County;

WHEREAS, the County desires to enlarge the boundaries of the Park to include the Project Site and to ensure that the Project Site remains in the Park or any other multi-county park created under the MCIP Act for as long as the Company is located at the Project Site;

WHEREAS, in connection with the Project, the Company has requested the County to enter into an incentive agreement, to the extent and subject to the conditions provided in that agreement, to establish the commitments of (i) the Company to make the Investment and create the Jobs; and (ii) the County to provide certain special source revenue credits against certain payments in lieu of taxes made in connection with the Project;

WHEREAS, in accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a situs in the Park are exempt from all *ad valorem* taxation, however, the owners or lessees of such real and personal property are obligated to make, or cause to be made, payments in lieu of taxes to the County in the total amount equivalent to the *ad valorem* property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such Park (each, a “Fee Payment”).

WHEREAS, the County has determined to provide an annual special source revenue credit for the Project for the benefit of the Company in an amount equal to \$40,000 per year for a period of five (5) years, the terms and conditions of which are more fully set forth in an agreement attached hereto as **Exhibit B** (“Infrastructure Credit Agreement”);

WHEREAS, Branning intends (i) to participate in the Investment under the Infrastructure Credit Agreement, and (ii) to execute with the Company a Joinder Agreement, the form of which is attached as an exhibit to the Infrastructure Credit Agreement, and therefore wishes to be approved by the County as a Project Affiliate.

NOW THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. Findings. The County hereby finds and affirms based on information provided by the Company: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 2. Authorization to Execute and Deliver Infrastructure Credit Agreement. The County Council authorizes and directs the County Council Chairman and the Clerk to Council to execute the Infrastructure Credit Agreement, which shall be in substantially the form now before this meeting, or with such modifications and revisions which shall not be materially adverse to the County and shall be deemed approved by the County Council upon the Chairman’s and the Clerk to Council’s execution of the Infrastructure Credit Agreement; the Clerk to County Council is further authorized and directed to deliver the executed Infrastructure Credit Agreement to the Company.

Section 3. Inclusion and Maintenance of Project in Park. The expansion of the Park boundaries is hereby authorized to include the Project Site, as described on the attached **Exhibit A**, which shall serve as revised Exhibit A to the Park Agreement, as set forth in Section 3(B) of the Park Agreement. Upon adoption by Calhoun County Council of a corresponding ordinance, the Park Agreement shall be deemed amended to so include the Project Site without further action by either county. The County Council shall ensure that the Project is incorporated into and will remain in the Park (or a successor multi-county industrial park) for as long as the Company is located at the Project Site and hereby authorizes and directs the County Council Chairman and the County Administrator to execute an amendment to the Park Agreement, with any minor modifications and revisions which shall not be materially adverse to the County and shall be deemed approved by the County Council upon the Chairman's and the Clerk to Council's execution of the amendment to the Park Agreement; and the Clerk to County Council is further authorized and directed to deliver the executed amendment to the Park Agreement to the Company.

Section 4. Addition of Project Affiliate(s). The County authorizes Branning's participation in the Investment and joining as a Project Affiliate to the Infrastructure Credit Agreement as contemplated therein.

Section 5. Further Acts. The County Council authorizes the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an "Authorized Individual") to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

Section 6. General Repealer. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 7. Severability. Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat, Chairman
Lexington County Council

(SEAL)
ATTEST:

Diana Burnett, Clerk to Council

Lexington County Council

READINGS:

First Reading:	July 28, 2015
Second Reading:	August 25, 2015
Third Reading:	September 22, 2015
Public Hearing:	August 25, 2015

EXHIBIT A

Description of Project Site

All that certain piece, parcel or tract of land, containing 6.41 acres, more or less, with the improvements thereon, situate, lying and being near the Town of Gilbert, in School District No. 1, in the County of Lexington, State of South Carolina, being fully shown and delineated on a plat prepared for Branning Property Management, LLC by Cox and Dinkins, Inc., dated December 23, 2009 and recorded in the Office of the ROD for Lexington County in Book 14033, page 328, which plat is incorporated herein and made a part hereof and to which reference is craved for a more complete and accurate description of the metes and bounds of this property.

EXHIBIT B

Infrastructure Credit Agreement

[See Attached]

INFRASTRUCTURE CREDIT AGREEMENT

BY AND BETWEEN

OMP MECHTRON, LLC

AND

LEXINGTON COUNTY, SOUTH CAROLINA

[INSERT DATE]

**PREPARED BY:
PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450
COLUMBIA, SOUTH CAROLINA 29201
(803) 255-8000**

INFRASTRUCTURE CREDIT AGREEMENT

THIS INFRASTRUCTURE CREDIT AGREEMENT ("Agreement") is made and entered into as of [INSERT DATE], by and among Lexington County, South Carolina ("County"), a body politic and corporate and a political subdivision of the State of South Carolina ("State"), acting by and through the Lexington County Council ("County Council") as the governing body of the County and OMP Mechtron, LLC, a South Carolina limited liability company, its affiliated and related entities and assigns ("Company") and any other party that may join as a Project Affiliate as that term is defined in this Agreement (hereinafter, the County, the Company, and any Project Affiliate are referred to collectively as "Parties," and individually as a "Party").

WITNESSETH:

(a) The County, acting by and through its County Council is authorized by Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, including Sections 4-1-170 and 4-1-175 thereof, Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (collectively, the "Infrastructure Credit Act"), and Article VIII, Section 13 of the South Carolina Constitution (i) to provide special source revenue credits for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the project and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County; and (ii) to expand, in conjunction with one or more other counties, a joint county industrial or business park in order to facilitate the grant of such special source revenue credits;

(b) The Company, along with any Project Affiliate, is planning an investment consisting of the expenditure of \$2,950,000 ("Investment") and the creation of approximately 20 new, full-time jobs ("Jobs") in connection with the acquisition by construction, lease and purchase of certain land, buildings, furnishings, fixtures, and equipment, for the purpose of locating a manufacturing facility in the County (collectively, "Project");

(c) The Investment may consist of investment made by the Company and any Project Affiliate and shall include the fair market value of the Project Site, as that term is defined below, upon the transfer of ownership of the Project Site from the Project Affiliate to the Company;

(d) Branning Property Management, LLC, which has been designated a Project Affiliate pursuant to Ordinance No. [] dated [insert date] ("Branning") currently owns an approximately 20,000 square foot building, and the parcel upon which it sits, located at 4335 Augusta Highway, Gilbert, South Carolina, a description of which is more fully set forth on the attached **Exhibit A** ("Project Site");

(e) The Company proposes to lease the Project Site from Branning to undertake the Project in the County;

(f) The Project, including the Project Site, will be placed in a multi-county industrial park as previously formed by that "Agreement for Development of Joint County Industrial Park" dated December 11, 1995, as subsequently amended ("Park Agreement");

(g) The term Project Affiliate refers to an affiliate that joins with or is an affiliate of the Company who executes and delivers a Joinder Agreement in a form substantially similar to that attached hereto as **Exhibit B**; and whose investment with respect to the Project shall (i) be considered part of the Investment

for purposes of this Agreement and (ii) be qualified to receive the benefits pursuant to this Agreement and the Infrastructure Credit Act; and

(h) In accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a *situs* in a Park, are exempt from all *ad valorem* taxation, however, the owners or lessees of such real and personal property are obligated to make, or cause to be made, payments in lieu of taxes to the County in the total amount equivalent to the *ad valorem* property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such Park (each, a “Fee Payment”).

NOW, THEREFORE, IN CONSIDERATION of the respective representations and agreements contained in this Agreement, the Parties agree to the following.

Section 1. *Infrastructure Credit for Assets at Project Site.* Subject to the provisions herein, the County grants an annual infrastructure credit (“Infrastructure Credit”) to the Company and any Project Affiliate against each Fee Payment in an amount equal to \$40,000 per year for a period of five (5) years (“Credit Period”), as extended, the aggregate value of which shall not exceed \$200,000.

The Credit set forth in this Agreement shall apply to the Fee Payments due with respect to the Project in connection with investments made during the remainder of the 2015 calendar year, and in service as of December 31, 2015, and for each year thereafter through December 31, 2020 (“*Investment Period*”). The Credit Period shall commence in the first property tax year for which any Fee Payment becomes due. The Parties anticipate that the first year of the Credit Period will begin in property tax year 2016 (*i.e.*, since the Fee Payment for investments made in 2015 will be invoiced to the Company and any of the Project Affiliate(s) in property tax year 2016) and that the last year of the Credit Period will be the property tax year in which the last Fee Payment against which any Infrastructure Credit is applied, anticipated to be property tax year 2021, as extended.

Any Infrastructure Credit provided under this Agreement shall be used to reimburse the Company and any Project Affiliate for eligible expenditures, as permitted by the Infrastructure Credit Act, which includes the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Company’s property, for improved or unimproved real estate or for machinery and equipment. The Infrastructure Credit benefits shall be first deemed to be applied to the eligible expenditures of the Company, with any remaining Infrastructure Credit benefit to be applied to the eligible expenditures of the Project Affiliate, the allocation of which shall be determined in the sole discretion of the Company. In no event shall the aggregate amount of Infrastructure Credits received as of any point in time exceed the amount of the Company’s, and any Project Affiliate’s aggregate investment in such eligible expenditures as of such time.

To the extent that the Company is unable to apply the annual Infrastructure Credit to its fullest extent in any given year of the Credit Period, the Company may use any remaining amount of annual Infrastructure Credit in any of the succeeding years of the Credit Period. To the extent that the Company has any remaining, unused Infrastructure Credit upon the end of the Credit Period, the Company may request that the County extend the Credit Period so that the Company may apply such amount to future Fee Payments, the extension of which may be approved by the County Administrator, without further action by County Council. However, if there is sufficient Fee Payment in any given year during the Credit Period against which an annual Infrastructure Credit could be applied, then the annual Infrastructure Credit must be taken to the fullest extent against such Fee Payment in such year.

Section 2. *Certification and Credit Reimbursements.* For each year during the Credit Period, the Company shall be responsible for completing a “Credit Certification Form” (attached as **Exhibit C**)

Should the Company fail to achieve the Investment by December 31, 2020, as reported on the Credit Certification Form, then all Infrastructure Credits previously provided by the County to the Company shall be repaid by the Company to the County, the payment of which shall occur no later than 120 days following the end of the Investment Period. Should the Company achieve the Investment in any year prior to the end of the Investment Period, as reported on the Credit Certification Form, then the Company shall maintain the Investment for all subsequent years of the Credit Period, failure of which shall result in termination of the Infrastructure Credit for each of the subsequent years of the Credit Period. With respect to the Investment, although Fee Payments in connection with the Project Site shall receive the Infrastructure Credit benefits set forth herein, the value of the Project Site shall not be considered a part of the definition of Investment for purposes of the determining whether the Company has met or maintained its Investment obligation herein until the Company has been transferred ownership of the Project Site.

Section 4. Addition of Project Affiliates. Any Project Affiliate may join as a Party to this Agreement, without the approval of County Council, provided that it agrees to be bound by the terms of that Joinder Agreement attached as **Exhibit B**, a fully executed copy of which will be delivered to the County.

AS TO THE COUNTY: Lexington County, South Carolina
ATTN: Joseph G. Mergo, III, County Administrator
212 South Lake Drive, Suite 601
Lexington, South Carolina 29072
Telephone: (803) 785-8103
Fax: (803) 785-8101
Email: jmergo@lex-co.com

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(which shall not constitute notice)

County Attorney, Lexington County
140 East Main Street
Lexington, South Carolina 29072
Telephone: (803) 359-2512
Fax: (803) 359-7478
Email: jeff@oldcourthouse.com

AS TO THE COMPANY:

OMP Mechtron, LLC
ATTN: Alessandro Mari
General Manager
4335 Augusta Highway
Gilbert, South Carolina 29054
Telephone: (803) 687-3400
Email: alessandro.mari@ompmechtron.com

WITH A COPY TO:

Parker Poe Adams & Bernstein LLP
ATTN: Sam C. Moses, Esquire
Parker Poe Adams & Bernstein LLP
1201 Main Street, Suite 1450
Columbia, South Carolina 29202
Telephone: (803) 255-8000
Facsimile: (803) 255-8017
Email: sammoses@parkerpoe.com

Section 6. *Binding Effect.* This Agreement is binding, in accordance with its terms, upon and inures to the benefit of the Company and its respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 7. *Counterparts.* The Parties may execute this Agreement in any number of counterparts, in original or by facsimile or electronic means, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 8. *Governing Law.* This Agreement and all documents executed in connection with this Agreement are construed in accordance with and governed by the laws of the South Carolina. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

Section 9. *Amendments.* The Parties may modify or amend this Agreement only in a writing signed by the Parties.

Section 10. *Further Assurance.* From time to time the County shall execute and deliver to the Company any additional instruments as the Company reasonably request to evidence or effectuate the purposes of this Agreement, subject to any approvals required to be obtained from County Council.

Section 11. *Severability.* If any provision of this Agreement is illegal, invalid or unenforceable for any reason, the remaining provisions remain unimpaired and any illegal, invalid or unenforceable

provision are reformed to effectuate most closely the legal, valid and enforceable intent and to afford the Company with the maximum benefits to be derived under this Agreement and the Act, it being the intention of the County to offer the Company the strongest inducement possible to encourage investment on the Project.

Section 12. *Assignment.* This Agreement may be assigned in whole or in part. To the extent any further consent is required by the Act and requested, the County may grant such consent by adoption of a Resolution.

Section 13. *Limited Obligation.* THIS AGREEMENT AND THE INFRASTRUCTURE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE INFRASTRUCTURE CREDITS.

Section 14. *Force Majeure.* The Company is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Company's reasonable control.

Signature pages follows.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk to County Council as of the day and year first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat, Chairman
Lexington County Council

(SEAL)
ATTEST:

Diana Burnett, Clerk to Council
Lexington County Council

IN WITNESS WHEREOF, the Company has caused this Agreement to be executed in its name and on its behalf by its authorized officer as of the day and year first above written.

OMP MECHTRON, LLC

By: _____

Its: _____

EXHIBIT A

Project Site

All that certain piece, parcel or tract of land, containing 6.41 acres, more or less, with the improvements thereon, situate, lying and being near the Town of Gilbert, in School District No. 1, in the County of Lexington, State of South Carolina, being fully shown and delineated on a plat prepared for Branning Property Management, LLC by Cox and Dinkins, Inc., dated December 23, 2009 and recorded in the Office of the ROD for Lexington County in Book 14033, page 328, which plat is incorporated herein and made a part hereof and to which reference is craved for a more complete and accurate description of the metes and bounds of this property.

EXHIBIT B

JOINDER AGREEMENT

Reference is hereby made to that certain Infrastructure Credit Agreement effective [insert date] (“Infrastructure Credit Agreement”), between Lexington County, South Carolina (“County”) and [insert Company name] (the “Company”).

1. Joinder to Infrastructure Credit Agreement.

The undersigned hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Infrastructure Credit Agreement except the following: _____; (b) acknowledges and agrees that (i) in accordance the Infrastructure Credit Agreement, the undersigned has been designated as a Project Affiliate by the Company for purposes of the Project; and (ii) the undersigned shall have all of the rights and obligations of a Project Affiliate as set forth in the Infrastructure Credit Agreement, unless otherwise set forth herein.

2. Capitalized Terms.

All capitalized terms used but not defined in this Joinder Agreement shall have the meanings set forth in the Infrastructure Credit Agreement.

3. Governing Law.

This Joinder Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of choice of law.

4. Notice.

Notices under Section 5 of the Infrastructure Credit Agreement shall be sent to:

[_____]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

Date

Name of Entity

By: _____

Name: _____

Its: _____

Address: _____

IN WITNESS WHEREOF, the Company consents to the addition of the above-named entity becoming a Project Affiliate under the Infrastructure Credit Agreement effective as of the date set forth above.

By: _____

Name: _____
Its: _____
Date: _____
Address: _____

EXHIBIT C

Annual Certification and Claim Form

Infrastructure Credit

Reference is made to the Infrastructure Credit Agreement, dated as of [INSERT DATE] (“Agreement”), by and among Lexington County, South Carolina (“County”) and OMP Mechtron, LLC (“the Company”). Each capitalized term not defined in this Annual Certification and Claim Form (“Certification”) has the meaning contained in the Agreement.

According to the Agreement, the undersigned authorized agent of the Company certifies:

1. The Company and any Project Affiliate (as that term is defined in the Agreement) are entitled to claim an annual Infrastructure Credit against each annual Fee Payment, for up to five years during the Credit Period (as that term is defined in the Agreement), as extended, in the manner and in an amount further described in the Agreement, but not exceeding an amount for which a credit is permitted under the Infrastructure Credit Act (as that term is defined in the Agreement).

2. The invoice for the annual Fee Payment for property tax year 20__, provided by the County to the Company, specifies that the Fee Payment due on or before January 15, 20__, is \$_____ (“A”).

3. The amount of the Infrastructure Credit against which the Company may deduct from the Fee Payment may not exceed more than \$40,000 in each year pursuant to Section 1 of the Agreement, the amount of which the Company may determine in its sole discretion. The Company elects to apply an Infrastructure Credit equal to \$_____ against the Fee Payment set forth in Section 2 herein (“B”). The Company is remitting or has remitted the total amount of the Fee Payment, incorporating the Infrastructure Credit deduction set forth in this Section 3, in an amount of \$_____ (“C,” which is the equivalent of A - B).

4. The invoice for the annual Fee Payment for property tax year 20__, provided by the County to the Project Affiliate, as applicable, specifies that the Fee Payment due on or before January 15, 20__, is \$_____ (“D”).

5. The amount of the Infrastructure Credit against which the Project Affiliate may deduct from the Fee Payment may not exceed more than \$40,000 in each year pursuant to Section 1 of the Agreement, the amount of which the Company may determine in its sole discretion (and after application of the amount applied above in Section 3) The Company elects to apply an Infrastructure Credit equal to \$_____ (“E”) against the Fee Payment. The Project Affiliate (or the Company on behalf of the Project Affiliate) is remitting or has remitted the total amount of the Fee Payment, incorporating the Infrastructure Credit deduction set forth in this Section 5 in an amount of \$_____ (“F,” which is the equivalent of D - E).

6. The total amount of Infrastructure Credit claimed herein is \$_____ (B + E). As a result, if applicable, the remaining Infrastructure Credit to be carried-over pursuant to the Agreement is \$_____.

The Infrastructure Credit specified in this Certificate for the current property tax year, together with the amount of all Infrastructure Credits previously claimed pursuant to the Agreement, do not, in the aggregate, exceed the total cost of all infrastructure improvements funded by the Company, the Project Affiliate, if applicable, and all investors, for which the Infrastructure Credit is permitted under the Infrastructure Credit Act.

IN WITNESS WHEREOF, I have executed this Certificate as of _____, _____.

OMP Mechtron, LLC.

By: _____

Name: _____

Title: _____

ORDINANCE 15-12

AN ORDINANCE AUTHORIZING PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN LEXINGTON COUNTY, SOUTH CAROLINA AND UPS WORLDWIDE FORWARDING, INC.; AND MATTERS RELATING THERETO.

WHEREAS, Lexington County (the “County”), a public body corporate and politic under the laws of the State of South Carolina has, by an Inducement Resolution adopted on July 28, 2015 (the “Resolution”), taken official action to identify the Project (as defined below) for purposes of applicable fee-in-lieu of taxes statutes and otherwise;

WHEREAS, the County desires to enter into a fee agreement (the “Fee Agreement”) with UPS Worldwide Forwarding, Inc., a Delaware Corporation authorized to transact business in the State of South Carolina as sponsor and certain sponsor affiliates (the “Company”), which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “Act”);

WHEREAS, the County and the Company desire to enter into a Fee Agreement concerning the expansion and modernization of a distribution facility in the County which will consist of the construction, purchase, and/or acquisition of real property and/or certain personal property, including all equipment, furnishings and other personal property required by the Company and any and all activities relating thereto (which properties constitute a project under the Act and are referred to herein as the “Project”). The Project is expected to provide significant economic benefits to the County and surrounding areas. In order to induce the Company to locate the Project in the County, the County has agreed to charge a fee-in-lieu of taxes with respect to the Project and otherwise make available to the Company the benefits intended by the Act;

WHEREAS, Lexington County Council (the “County Council”) has caused to be prepared and presented to the County Council the Fee Agreement between the County and the Company, a copy of which is attached hereto as Exhibit A, which the County shall execute and deliver; and

WHEREAS, it appears that the documents above referred to are appropriate instruments to be executed and delivered or approved by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the County Council in meeting duly assembled as follows:

Section 1. Pursuant to the Act and particularly Section 12-44-40(I) thereof, the County Council has made and hereby makes the following findings:

(a) The Project constitutes a “project” as said term is referred to and defined in Section 12-44-30 of the Act;

(b) It is anticipated that the Project will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes;

(d) It is anticipated that the cost of planning, designing, acquiring, constructing and completing the Project will require expenditures of not less than \$2.5 million;

(e) The benefits of the Project to the public are greater than the costs to the public;

(f) Neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; and

(g) Having evaluated the purposes to be accomplished by the Project as proper governmental and public purposes, the anticipated dollar amount and nature of the investment to be made, and the anticipated costs and benefits to the County, the County has determined that the Project is properly classified as economic development property.

Section 2. In order to promote industry, develop trade and utilize the manpower, agricultural products and natural resources of the State, the form, terms and provisions of the Fee Agreement which is attached hereto and shall be executed and filed with the Clerk to County Council and which comply with the terms of the aforementioned Inducement Resolution are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Fee Agreement was set out in this Ordinance in its entirety. The Chair of County Council and the Clerk to County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the Fee Agreement to the Company.

Section 3. The Chair of County Council and the Clerk to County Council, for and on behalf of the County, are hereby each authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement in a form substantially identical to the terms contemplated herein and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 4. The consummations of all transactions contemplated by the Fee Agreement are hereby approved.

Section 5. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

Section 6. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to

be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 7. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

DONE, RATIFIED AND ADOPTED this ____ day of _____, 2015.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat
Chair of Lexington County Council

ATTEST:

By: _____
Diana W. Burnett
Clerk to Lexington County Council

First Reading: _____, 2015
Second Reading: _____, 2015
Public Hearing: _____, 2015
Third Reading: _____, 2015

Exhibit A
Fee Agreement

FEE AGREEMENT

AMONG

LEXINGTON COUNTY, SOUTH CAROLINA

UPS WORLDWIDE FORWARDING, INC.
AS SPONSOR

AND

UNITED PARCEL SERVICE, INC. (OHIO)
AS SPONSOR AFFILIATE

AND

BT REALTY II, INC.
AS SPONSOR AFFILIATE

DATED AS OF _____, 2015

RECAPITULATION OF CONTENTS OF
FEE AGREEMENT PURSUANT TO S.C. CODE § 12-44-55(A)

The parties have agreed to waive this requirement pursuant to S.C. Code Ann. § 12-44-55(B).

FEE AGREEMENT

THIS FEE AGREEMENT ("Fee Agreement") is made and entered into as of _____, 2015, by and between **LEXINGTON COUNTY, SOUTH CAROLINA** (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the "County Council") as governing body of the County, and **UPS WORLDWIDE FORWARDING, INC.**, which is authorized to transact business in the State of South Carolina and **UNITED PARCEL SERVICE, INC. (OHIO)**, an Ohio Company ("UPS ") and **BT REALTY II, INC.** ("BT Realty"), a Maryland corporation (collectively, UPS and BT Realty are referred to herein as the "Sponsor Affiliate").

WITNESSETH:

WHEREAS, the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the "Act"), to enter into a Fee Agreement with companies meeting the requirements of such Act which identifies certain property of such companies as economic development property to induce such companies to locate in the State and to encourage companies now located in the State to expand their investments and thus make use of and employ manpower and other resources of the State;

WHEREAS, pursuant to the Act, the County finds that (a) it is anticipated that the Project (as defined herein) will benefit the general public welfare of the County by providing services, employment and other public benefits not otherwise adequately provided locally; (b) neither the Project nor any documents or agreements entered into by the County in connection therewith will give rise to any pecuniary liability of the County or incorporated municipality or to any charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project to the public are greater than the costs to the public;

WHEREAS, pursuant to an Inducement Resolution dated as of July 28, 2015 (the "Inducement Resolution") the County committed to enter into a fee agreement with the Sponsor which shall provide for payments of fees-in-lieu of taxes for a project qualifying under the Act using an assessment ratio of 6% and a fixed millage rate for 20 years with respect to each stage of the Project placed in service during the Investment Period; and

WHEREAS, it appears the Project will consist of personal property and real estate improvements owned primarily by the Sponsor with certain property owned by the Sponsor Affiliate (collectively the Sponsor and Sponsor Affiliate shall be referred to herein as the "Company"); and

WHEREAS, pursuant to an Ordinance adopted on _____, 2015 (the "Ordinance"), as an inducement to the Company to develop the Project, the County Council authorized the County to enter into a Fee Agreement subject to the terms and conditions hereof.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

ARTICLE I

RECAPITULATION AND DEFINITIONS

SECTION 1.1. *Statutorily Required Recapitulation.* Pursuant to Section 12-44-55(B), the County and the Company agree to waive the recapitulation requirements of Section 12-44-55. If the Company should be required to retroactively comply with the recapitulation requirements of Section 12-44-55, then the County agrees to waive all penalties and fees of the County for the Company's noncompliance.

SECTION 1.2. *Rules of Construction; Use of Defined Terms.* Unless the context clearly indicates otherwise, in this Fee Agreement words and terms defined in Section 1.3 hereof are used with the meanings ascribed thereto. The definition of any document shall include any amendments to that document, unless the context clearly indicates otherwise.

From time to time herein, reference is made to the term taxes or *ad valorem* taxes. All or portions of the Project will be located in a Multi-County Industrial and Business Park and are exempt from *ad valorem* taxation under and by virtue of the provisions of Paragraph D of Section 13 of Article VIII of the S.C. Constitution (the "MCIP Provision"). With respect to facilities located in a Multi-County Industrial and Business Park, references to taxes or *ad valorem* taxes mean the payments-in-lieu-of-taxes provided for in the MCIP Provision, and, where this Fee Agreement refers to payments of taxes or Payments-in-Lieu-of-Taxes to County Treasurers, such references shall be construed to mean the payments to the counties participating in such a Multi-County Industrial and Business Park.

SECTION 1.3. *Definitions.*

"Act" means Title 12, Chapter 44, Code of Laws of South Carolina 1976, as the same may be amended from time to time; provided that if any such amendment shall be applicable only at the option of the County or the Company, then such amendment shall only be applicable with the consent or at the request of the Company.

"Act Minimum Investment Requirement" shall mean an investment of at least \$2,500,000 by the Company of property eligible as economic development property under the Act, however, that in the event of a reduction of the minimum investment level in Section 12-44-30(14) of any successor section by legislative action, then the Act Minimum Investment Requirement shall equal such reduced amount.

"Applicable Governmental Body" means each governmental entity within the State having jurisdiction over or the right to approve or disapprove any or all of the Documents.

"Chair" means the Chair of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Chair).

“Clerk” means the Clerk of County Council (or the person or persons authorized to perform the duties thereof in the absence of the Clerk).

“Commencement Date” means the last day of the property tax year when Project property is first placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the County and the Company have entered into this Agreement.

“Company” shall have the meaning set forth in the recitals to this Agreement.

“County Council” means the County Council of the County.

“County” means **Lexington County, South Carolina**, and its successors and assigns.

“Documents” means the Ordinance, this Fee Agreement and the Inducement Resolution.

“DOR” means the South Carolina Department of Revenue and any successor thereto.

“Equipment” means all machinery, apparatus, equipment, fixtures, office facilities, furnishings and other personal property to the extent such property becomes a part of the Project under this Fee Agreement.

“Event of Default” shall mean any Event of Default specified in Section 9.1 of this Fee Agreement.

“Fee Agreement” means this Fee Agreement dated as of the date first set forth above, between the County and the Company.

“Fee Term” shall mean the duration of this Fee Agreement with respect to each Stage of the Project as specified in Section 5.4 hereof.

“Improvements” shall mean all improvements on the Land constituting real property, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefore used or to be used in the County for the purposes described in Section 4.1 hereunder.

“Inducement Resolution” shall mean the Resolution of the County Council adopted on July 28, 2015, committing the County to enter into the Fee Agreement.

“Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Project Property and ending five years after the Commencement Date, provided that the Company and the County may agree to a later date pursuant to Section 12-44-30(13) of the Act.

“Land” means the land owned by the Company in the County, together with all and singular the rights, members, hereditaments, and appurtenances belonging or in any way incident or appertaining thereto and more specifically described on Exhibit A attached hereto.

“Minimum Investment Requirement” shall mean an investment of at least \$50,000,000 in property subject to ad valorem taxation (in the absence of this Fee Agreement and/or the Industrial Development Park) by the Company.

“Multi-County Industrial and Business Park” means an industrial and business park established for inclusion of the Project pursuant to the Multi-County Industrial and Business Park Agreement pursuant to Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended, and Article VIII, Section 13, paragraph D of the Constitution of South Carolina.

“Multi-County Industrial and Business Park Agreement” shall mean the Multi-County Industrial and Business Park Agreement dated September 11, 1995 and all amendments thereto between the County and Calhoun County.

“Ordinance” means the Ordinance adopted by the County on _____, 2015, authorizing this Fee Agreement.

“Payments-in-Lieu-of-Taxes” means the payments to be made by the Company pursuant to Section 5.1 of this Agreement.

“Personal Property” means all machinery, apparatus, equipment, fixtures, office facilities, furnishings, and other personal property, together with additions thereto, replacements thereof, and substitutions therefore, to the extent such property becomes a part of the Project under this Fee Agreement.

“Project Property” shall mean all Real Property and Personal Property in the County that the Company determines to be necessary, suitable, or useful for the purposes that Section 4.1 describes, and that is first placed in service in calendar year 2015 or thereafter. The parties agree that Project property shall consist of such property so properly identified by the Company in connection with its annual filing with the DOR of a SCDOR PT-300, or such comparable form, and with such schedules as the DOR may provide in connection with projects subject to the Act (as such filing may be amended or supplemented from time to time) for each year within the Investment Period.

“Real Property” shall mean the Land and the Improvements, together with additions thereto, replacements thereof, and substitutions therefore, to the extent such property becomes a part of the Project under this Fee Agreement.

“Replacement Property” means any property acquired or constructed after the Investment Period as a replacement for any property theretofore forming a part of the Project and disposed of, or deemed disposed of, as provided in Section 5.2 hereof.

“Sponsor” shall have the same meaning set forth hereinabove.

“Sponsor Affiliate” shall have the meaning set forth hereinabove.

“**Stage**” in respect of the Project shall mean the year within which Project property, if any, is placed in service during each year of the Investment Period.

“**State**” means the State of South Carolina.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II

LIMITATION OF LIABILITY; INDUCEMENT

SECTION 2.1 *Limitation of Liability.* Any obligation which the County may incur for the payment of money as a result of the transactions described in the Documents shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under the Documents.

SECTION 2.2. *Inducement.* The County and the Company acknowledge that pursuant to the Act, upon execution of this Fee Agreement, no part of the Project will be subject to ad valorem property taxation in the State, and that this factor, among others, has induced the Company to enter into this Fee Agreement.

ARTICLE III

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 3.1 *Representations and Warranties of the County.* The County makes the following representations and warranties to the Company and covenants with the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the Act to execute the Documents to which it is a party and to fulfill its obligations described in the Documents. By proper action, the County Council has duly authorized the execution and delivery of the Documents to which the County is a party and has taken all such action as is necessary to permit the County to enter into and fully perform the transactions required of it under the Documents.

(b) Neither the execution and delivery of the Documents, nor the consummation and performance of the transactions described in the Documents, violate, conflict with or will result in a breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the County is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or

threatened, against or affecting the County, wherein an unfavorable decision, ruling or finding may or would materially affect the County's obligations hereunder or the consummation of the transactions described in the Documents.

(d) Neither the existence of the County nor the rights of any members of County Council to their offices is being contested and none of the proceedings taken to authorize the execution, delivery and performance of such of the Documents as require execution, delivery and performance by the County has been repealed, revoked, amended or rescinded.

(e) All consents, authorizations and approvals required on the part of the County, State and all other Applicable Governmental Bodies in connection with the execution, delivery and performance by the County of such of the Documents as require execution, delivery and performance by the County have been obtained and remain in full force and effect as of the date hereof or will be obtained.

(f) The Project constitutes a "project" within the meaning of the Act, and the Project is located in a Multi-County Industrial and Business Park and will be so located for the duration of this Fee Agreement.

(g) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of property comprising the Project shall be considered economic development property under the Act.

(h) The Documents to which the County is a party are (or, when executed, will be) legal, valid and binding obligations of the County enforceable against the County under present law in accordance with their respective terms, except as such terms may be limited by laws affecting creditors' rights generally.

SECTION 3.2. *Covenants by the County.* The County covenants with the Company as follows:

(a) The County agrees to do all things deemed reasonably necessary as requested by the Company in writing in connection with the Project including but not limited to the execution, delivery and performance of its obligations in the Documents and in accordance with the Act, all for the purposes of promoting industrial development, developing trade, and utilizing and employing the manpower and natural resources of the County and the State. Except as reasonably believed to be required by the County in the performance of its duties under statute or law, the County will take no action with respect to the Project unless authorized or requested to do so by the Company.

(b) Upon receipt of written request from the Company, the County agrees to consider any request the Company may make for an extension of the Investment Period in accordance with and up to the limits permitted under Section 12-44-30(13) of the Act. Such extension may be provided by a resolution of County Council. Upon the granting of any such extension the County agrees to cooperate with the Company by filing with the DOR a copy of such extension within 30 days of the date of execution thereof by the County. Such extension may be provided by a resolution of County Council.

SECTION 3.3. *Representations and Warranties of the Sponsor.* The Sponsor makes the following representations and warranties to the County:

(a) The Sponsor is a Delaware corporation authorized to transact business in South Carolina. The Company has full power to execute the Documents to which it is a party and to fulfill its obligations described in the Documents and, by proper entity action, has authorized the execution and delivery of the Documents to which it is a party.

(b) Neither the execution and delivery of this Fee Agreement, nor the consummation and performance of the transactions described in this Fee Agreement violate, conflict with, or will, to its knowledge, result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the Sponsor is now a party or by which it is bound.

(c) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the Sponsor with respect to which the Sponsor knows that an unfavorable decision, ruling or finding would adversely affect the Sponsor or the consummation of the transactions described in the Documents.

(d) All consents, authorizations and approvals required on the part of the Sponsor in connection with the Documents and the transactions contemplated thereby and the acquisition, construction and installation of the Project have been obtained and remain in full force and effect or will be obtained.

(e) This Fee Agreement shall be (or, when executed, will be) a legal, valid and binding obligation of the Sponsor enforceable against the Sponsor in accordance with the respective terms contained herein, except as such terms may be limited by laws affecting creditors' rights generally.

(f) The cost of the Project is anticipated to be approximately \$50,000,000.

(g) The Sponsor will pay all reasonable costs of the County, including attorney's fees, incurred in connection with the authorization, execution and delivery of this Fee Agreement.

SECTION 3.4. *Representations of the Sponsor Affiliate.* The Sponsor Affiliate makes the following representations and warranties to the County:

(a) UPS is an Ohio corporation and has full power to execute the Documents to which it is a party and to fulfill its obligations described in the Documents and, by proper entity action, has authorized the execution and delivery of the Documents to which it is a party.

(b) BT Realty is a Maryland corporation and has full power to execute the Documents to which it is a party and to fulfill its obligations described in the Documents and, by proper entity action, has authorized the execution and delivery of the Documents to which it is a party.

(c) Neither the execution and delivery of this Fee Agreement, nor the consummation and performance of the transactions described in this Fee Agreement violate, conflict with, or will, to its knowledge, result in a material breach of any of the material terms, conditions or provisions of any agreement, restriction, law, rule, order or regulation to which the Sponsor Affiliate is now a party or by which it is bound.

(d) There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any judicial or administrative court or agency, public board or body, pending or threatened, against or affecting the Sponsor Affiliate with respect to which the Sponsor Affiliate knows that an unfavorable decision, ruling or finding would adversely affect the Sponsor Affiliate or the consummation of the transactions described in the Documents.

(e) All consents, authorizations and approvals required on the part of the Sponsor Affiliate in connection with the Documents and the transactions contemplated thereby and the acquisition, construction and installation of the Project have been obtained and remain in full force and effect or will be obtained.

(f) This Fee Agreement shall be (or, when executed, will be) a legal, valid and binding obligation of the Sponsor Affiliate enforceable against the Sponsor Affiliate in accordance with the respective terms contained herein, except as such terms may be limited by laws affecting creditors' rights generally.

SECTION 3.5. *Filings and Reports.*

(a) Each year during the term of the Fee Agreement, the Company shall deliver to the County, the County Auditor, the County Assessor, and the County Treasurer, a copy of its most recent annual filings with the Department with respect to the Project, not later than 30 days following delivery thereof to the Department. In addition, the Company shall certify to the County Auditor and County Economic Development Director by April 30 of each year until and including the final year of the Minimum Investment Period as set forth in Section 5.2(b) the amount of the investment maintained at the Project. Failure to certify to the County shall be deemed a breach of covenant and subject to the provisions of Section 9.1(b).

(b) The Company shall cause the filing of a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor of the County and any partner county, when the Project is placed in a joint county industrial and business park, and the Department within 30 days after the date of execution and delivery hereof by all parties hereto.

ARTICLE IV

COMMENCEMENT AND COMPLETION OF THE PROJECT

SECTION 4.1. *The Project.* The Company intends to operate the Project as a "project" within the meaning of the Act as in effect on the date hereof. The Company intends to operate the Project as a distribution facility and for such other purposes that the Act permits as the Company may deem appropriate.

Pursuant to the Act, the Company and the County hereby agree that the property comprising the Project shall be economic development property as defined under the Act, so long as such property meets the requirements of the Act.

Notwithstanding any other provision of this Fee Agreement, the Company may place personal property into service at any time under this Fee Agreement.

SECTION 4.2. *Diligent Completion.* The Company agrees to use its reasonable efforts to cause the acquisition, construction and installation of the Project to be completed; however, notwithstanding anything contained in this Fee Agreement to the contrary, the Company shall not be obligated to complete the acquisition of the Project and may terminate this Agreement with respect to all or portion of the Project as set forth in Article X herein.

SECTION 4.3. *Modifications to Project.* The Company may make or cause to be made from time to time any additions, modifications or improvements to the Project that it may deem desirable for its business purposes.

ARTICLE V

PAYMENTS-IN-LIEU-OF-TAXES; DISPOSITION OF PAYMENTS-IN-LIEU-OF-TAXES

SECTION 5.1. *Payments-in-Lieu-of-Taxes.* The parties acknowledge that under Article I, Section 3 of the South Carolina Constitution and/or the MCIP Provision, the Project is exempt from ad valorem property taxes. However, the Company shall be required to make the Payments-in-Lieu-of-Taxes with respect to the Project as provided in this Section 5.1 or the MCIP Provision. In accordance with the Act, and unless this Fee Agreement is sooner terminated, the Company shall make annual Payments-in-Lieu-of-Taxes with respect to the Project, said payments being due and payable and subject to penalty assessments in the manner prescribed by the Act. Such amounts shall be calculated and payable as follows:

(a) With respect to portions of the Project that are eligible for negotiated Payments-in-Lieu-of-Taxes and listed on the Company's annual PT-300S or comparable filing, the Company has agreed to make annual Payments-in-Lieu-of-Taxes with respect to the Project in an amount equal to the property taxes that would be due with respect to such property, if it were taxable, but using an assessment ratio of 6% and a millage rate of 294.458. Property which previously has been subject to property taxes in South Carolina will not be eligible for negotiated Payments-in-Lieu-of-Taxes except as provided in Section 12-44-110 of the Act. The portion of the Land and Improvements to be subject to this Fee Agreement are more specifically identified on Exhibit B attached hereto.

The fair market value for the property will be calculated as set forth in accordance with Section 12-44-50(A)(1)(c) of the Act:

- (i) for real property using the original income tax basis for South Carolina income tax purposes without regard to depreciation; provided, however, if

real property is constructed for the fee or is purchased in an arm's length transaction, fair market value equals the original income tax basis; otherwise, the DOR will determine fair market value by appraisal; and

- (ii) for personal property, using the original income tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes, except that the Company is not entitled to extraordinary obsolescence.

Upon the mutual agreement of the County and the Company, the real property value shall be determined by appraisal as provided in Section 12-44-50(A)(1)(c) of the Act.

(b) The Payments-in-Lieu-of-Taxes must be made on the basis that the Project property, if it were otherwise subject to ad valorem property taxes, would be allowed all applicable exemptions from those taxes, except for the exemptions allowed under Section 3(g) of Article X of the South Carolina Constitution and Section 12-37-220(B)(32) and (34) of the Code of Laws of South Carolina, as amended.

(c) The Company shall make Payments-in-Lieu-of-Taxes for each year during the term hereof beginning with the tax year following the year property is first placed in service. The Payments-in-Lieu-of-Taxes shall be made to the County Treasurer on the due dates which would otherwise be applicable for ad valorem property taxes for the Project.

(d) Any property placed in service as part of the Project during the Investment Period shall be included in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, for a period not exceeding 20 years following the year in which such property was placed in service. Replacement Property shall be included (using its income tax basis) in the calculation of payments pursuant to paragraphs (a), (b) and (c), above, but only up to the original income tax basis of property which is being disposed of in the same property tax year. Replacement Property shall be deemed to replace the oldest property subject to the fee which is disposed of in the same property tax year that the Replacement Property is placed in service. More than one piece of property can replace a single piece of property. Replacement Property does not have to serve the same function as the property it is replacing. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the property which it is replacing, the portion of such property allocable to the excess amount shall be subject to annual payments calculated as if the exemption for economic development property under the Act were not allowed. Replacement Property is entitled to the fee payment pursuant to this Section 5.1 for the period of time remaining on the fee period for the property which it is replacing.

(e) With respect to portions of the Project that are not eligible for negotiated Payments-in-Lieu-of-Taxes, the Company shall remit Payments-in-Lieu-of-Taxes equal to the ad valorem taxes that would be due and owing if such portions of the Project were not located in a Multi-County Industrial and Business Park, all in accordance with the MCIP Provision.

SECTION 5.2. Failure to Achieve Minimum Investment and Job Requirements.

(a) In the event that the cost of the Project Property (without regard to depreciation) that the Company acquires does not reach the Act Minimum Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate as to such entity failing to meet the minimum investment level. In such event, the Company shall pay the County an amount (the “Additional Payment”) pursuant to the Act which is equal to the excess, if any, of (i) the total amount of ad valorem taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Project Property were not Project Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of FILOT payments the Company has made with respect to the Project Property through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be subject to the minimum amount of interest that the Act may require.

(b) The Company shall meet the Minimum Investment Requirement by the end of the Investment Period. If the Company fails to meet the Minimum Investment Requirement within the Investment Period, this Fee Agreement shall terminate. Furthermore, if the Company meets the Minimum Investment Requirement but fails to maintain at least \$35 million in investments (the “Minimum Investment Threshold”) for a period of 5 years after the Company achieves the Minimum Investment Requirement (the “Minimum Investment Period”), this Fee Agreement shall terminate. These remedies shall be prospective only and shall apply beginning in the year after the end of the Investment Period if the Company fails to meet the Minimum Investment Requirement or in the year after the year the Company fails to maintain the Maintenance Investment Threshold during the Minimum Investment Period, as the case may be.

SECTION 5.3. *Disposal of Property; Replacement Property.*

(a) In any instance where the Company in its sole discretion determines that any item or items of property included in the Project have become, in whole or in part, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such item (or such portion thereof as the Company shall determine) or items and sell, trade in, exchange or otherwise dispose of it or them (as a whole or in part) without any responsibility or accountability to the County therefore. The loss or removal from the Project of any property, or any portion thereof, as a result of fire or other casualty or by virtue of the exercise or threat of the power of condemnation or eminent domain shall be deemed to be a disposal of such property, or portion thereof, pursuant to this Section 5.3. Subject to the provisions of Section 5.1(d), 5.2(b) and this Section 5.3 with respect to Replacement Property, the Payments-in-Lieu-of-Taxes required by Section 5 hereof shall be reduced by the amount thereof applicable to any property included in the Project, or part thereof, disposed of, or deemed disposed of, pursuant to this Section 5.3.

(b) The Company may, in its sole discretion, replace, renew or acquire and/or install other property in substitution for, any or all property or portions thereof disposed of, or deemed disposed of, pursuant to Section 5.3(a) hereof. Any such property may, but need not, serve the same function, or be of the same utility or value, as the property being replaced. Absent a written election to the contrary made at the time of filing the first property tax return that would apply to such property, such property shall be treated as Replacement Property.

SECTION 5.4. *Fee Term.* The applicable term of this Fee Agreement shall be measured for each Stage beginning from the last day of the property tax year in which the Project is placed in service in that Stage through the last day of the property tax year which is the nineteenth year following such year; provided, that the maximum term of this Fee Agreement shall not be more than 20 years from the end of the last year of the Investment Period. This Fee Agreement shall terminate with respect to the Project or any Stage or part thereof upon the earlier to occur of (a) payment of the final installment of Payments-in-Lieu-of-Taxes pursuant to Section 5.1 hereof, or (b) exercise by the Company of its option to terminate pursuant to Section 10.1 hereof.

SECTION 5.5. *Multi-County Industrial and Business Park.* The County agrees to exercise its best efforts to ensure that the Project is included and remains in a Multi-County Industrial and Business Park for the duration of this Fee Agreement or as long as needed by either party, and to undertake and execute those procedures, instruments, ordinances, resolutions and documents as may be reasonably required to accomplish same.

ARTICLE VI

PROPERTY TAX EXEMPTION AND ABATEMENT

SECTION 6.1. *Protection of Tax Exempt Status of the Project.* In order to insure that the Project is not and will not become subject to ad valorem property taxes under the laws of the State of South Carolina or any political subdivision thereof, the County and the Company covenant that:

(a) all right and privileges granted to either party under this Fee Agreement or any other Documents shall be exercised so that if any conflict between this Section and any other provision in any document shall arise, then in that case, this Section shall control;

(b) the County and the Company have not knowingly committed or permitted and will not knowingly commit or permit (as to any act over which either has control) any act which would cause the Project to be subject to ad valorem property taxes by the County or political subdivision of the State of South Carolina in which any part of the Project is located; and

(c) the Company will maintain the identity of the Project as a “project” in accordance with the Act.

ARTICLE VII

EFFECTIVE DATE

SECTION 7.1. *Effective Date.* This Fee Agreement shall become effective upon its execution and delivery by the parties hereto unless a later date is specified herein.

ARTICLE VIII

SPECIAL COVENANTS

SECTION 8.1. *Indemnification Covenants.*

(a) The Company shall and agrees to hold the County and its County Council members, officers, agents, and employees harmless from all pecuniary liability in connection with the fulfillment of its or their obligations under this Fee Agreement and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof but only in case such liability is incurred as a result of a request by the Company for a modification, assignment, or a termination of the Fee Agreement by the Company, or as a result of a bankruptcy of the Company or a default by the Company under the terms of this Fee Agreement.

(b) Notwithstanding the foregoing, the Company shall not be obligated to indemnify the County or any of its individual members, officers, agents and employees for expenses, claims, losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual officers, agents or employees.

SECTION 8.2. *Assignment and Leasing.* The County agrees to consent, to the maximum extent allowed by the Act, for financing purposes, to: (a) any sale, transfer, disposition or assignment of the Fee Agreement, whether in whole or in part, by the Company or any transferee or assignee; (b) the transfer or assignment of security or other interests in any or all of the Company's interests in the property subject to the Fee Agreement; or (c) the sublease of any property subject to the Fee Agreement. The County further agrees that, if future County consent is required by the Act, the County Council can provide any such consent by a resolution of County Council. The County Administrator and the Clerk to County Council are hereby expressly individually and jointly authorized and directed to evidence the County's consent by timely executing such documents as the Company may reasonably request. Further, for the financing purposes of this Fee Agreement and as noted in Article 5 herein, a transaction or an event of sale, assignment, leasing, transfer of an interest herein, disposal, or replacement of all or part of the Project shall not be a termination of the Fee Agreement in whole or in part or a basis for changing the fee payments due under Section 12-44-50 of the Act.

ARTICLE IX

EVENT OF DEFAULT AND REMEDIES

SECTION 9.1. *Events of Default Defined.* The occurrence of any one or more of the following events shall be an “Event of Default” under this Fee Agreement:

(a) If the Company shall fail to make any Payment-in-Lieu-of-Taxes or any other amount required under this Fee Agreement and such failure shall continue for 30 days after receiving written notice of default from the County; or

(b) If the Company or the County shall fail to observe or perform any covenant, condition or agreement required herein to be observed or performed by the Company or the County (other than as referred to in Section 9.1(a) hereof), and such failure shall continue for a period of 30 days after written notice of default has been given to the Company by the County or to the County by the Company; provided if by reason of “force majeure” as hereinafter defined the Company or the County is unable in whole or in part to carry out any such covenant, condition or agreement or if it takes longer than 30 days to cure such default and the Company or the County is diligently attempting to cure such default, there shall be no Event of Default during such inability. The term “force majeure” as used herein shall mean circumstances not reasonably within the control of the parties, such as without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company or the County made in the Documents, or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

SECTION 9.2. *Remedies on Default.* Whenever any Event of Default shall have happened and be subsisting, the Company or the County, as applicable, may take whatever action at law or in equity may appear legally required or necessary or desirable to collect the payments and other amounts then due or to enforce performance and observance of any obligation, agreement or covenant of the non-performing party, under the Documents including the right to terminate this Fee Agreement. Although the parties acknowledge that the Project is exempt from ad valorem property taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, exercise the remedies provided by general law (Title 12, Chapter 49 and Title 12, Chapter 51) and the Act relating to the enforced collection of taxes.

SECTION 9.3. *No Additional Waiver Implied by One Waiver.* In the event any warranty, covenant or agreement contained in this Fee Agreement should be breached by the Company or the County and thereafter waived by the other party to this Fee Agreement, such

waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

ARTICLE X

OPTION OF THE COMPANY

SECTION 10.1. *Option to Terminate.* From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days notice, the Company may terminate this Fee Agreement with respect to the entire Project. Upon termination of this Fee Agreement, the Company will become liable for payments in lieu of taxes under the MCIP Provision or ad valorem property taxes on the Project or such portion thereof beginning with the property tax year following such termination.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1. *Notices.* All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by facsimile or certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 11.1:

If to the Sponsor: UPS Worldwide Forwarding, Inc.
 Attn: Howard Mantel – Tax Department
 643 W. 43rd St.
 New York, NY 10036

With A Copy to: UPS Worldwide Forwarding, Inc.
 Aadarsha Basavarajurs
 55 Glenlake Parkway NE
 Atlanta, GA 30328

With A Copy To: Gary W. Morris
 Haynsworth Sinkler Boyd, P.A.
 1201 Main Street, Suite 2200
 Columbia, SC 29201
 Facsimile: 803-765-1243

If to UPS: United Parcel Service, Inc.
 Attn: Howard Mantel – Tax Department
 643 W. 43rd St.
 New York, NY 10036

With A Copy To: United Parcel Service, Inc.
Aadarsha Basavarajurs
55 Glenlake Parkway NE
Atlanta, GA 30328

With A Copy To: Gary W. Morris
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, Suite 2200
Columbia, SC 29201
Facsimile: 803-765-1243

If to BT Realty II, Inc.: BT Realty II, Inc.
Attn: Howard Mantel – Tax Department
643 W. 43rd St.
New York, NY 10036

With A Copy to: BT Realty II, Inc.
Aadarsha Basavarajurs
55 Glenlake Parkway NE
Atlanta, GA 30328

With A Copy To: Gary W. Morris
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, Suite 2200
Columbia, SC 29201
Facsimile: 803-765-1243

If to the County: Lexington County Council, South Carolina
212 South Lake Drive
Lexington, SC 29072
Attention: Clerk to Council
Facsimile: 803-785-8101

With A Copy To: Jeffrey M. Anderson
Davis Frawley, LLC
140 E. Main Street
P.O. Box 489
Lexington, SC 29071-0489
Facsimile: 803-359-7478

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; (2) by facsimile, 24 hours after confirmed transmission or dispatch; and (3) by certified mail, 3 business days after delivery to the U.S. Postal authorities by the party serving notice.

SECTION 11.2. *Binding Effect.* This Fee Agreement shall inure to the benefit of and shall be binding upon the County and the Company and their respective successors and assigns.

SECTION 11.3. *Invalidity and Severability.* In the event that the Act or the Payments-in-Lieu-of-Taxes arrangement described in Section 5.1 hereof is determined to be invalid in its entirety, the parties hereby agree that except as the final judicial decision may otherwise require, the Company shall be entitled to retain any benefits received under or pursuant to this Fee Agreement; otherwise, in the event any provision of this Fee Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Fee Agreement, unless that decision destroys the basis for the transaction, in which event the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company hereunder by either restructuring or reconstituting this Fee Agreement under any then applicable law, including but not limited to Chapter 29 of Title 4 and Chapter 12 of Title 4, Code of Laws of South Carolina, as amended.

To the extent necessary to effectuate the intentions set forth in the preceding paragraph, the County agrees that in case the incentives described herein are found to be invalid or otherwise does not provide the Company with the economic benefit it is intended to receive from the County as an inducement to locate in the County, the savings lost as a result of such invalidity will be considered as infrastructure credits in accordance with any then applicable law, including but not limited to Chapter 29 of Title 4 and Chapter 12 of Title 4, Code of Laws of South Carolina, as amended, and the County will provide such infrastructure credits against all Payments-in-Lieu-of-Taxes under this Fee Agreement and/or payments-in-lieu-of-taxes under the MCIP Provision made or to be made by the Company equal to the amount that the Company would have saved if the incentives described herein had been valid, to the maximum extent permitted by law. However, the total amount of all infrastructure credits on an aggregate basis may not in any case exceed the Company's investment in infrastructure, as defined by such applicable law.

SECTION 11.4. *Payments Due on Saturday, Sunday and Holidays.* Whenever any payment to be made hereunder shall be stated to be due on a Saturday, a Sunday or a federal or state holiday, such payment shall be made on the next business day.

SECTION 11.5. *Fiscal Year; Property Tax Year.* If the Company's fiscal year changes in the future so as to cause a change in the Company's property tax year, the timing of the requirements set forth in this Fee Agreement shall be revised accordingly.

SECTION 11.6. *Amendments, Changes and Modifications.* Except as otherwise provided in this Fee Agreement, this Fee Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company. To the maximum extent allowed by law, any such County consent may be provided by a resolution of County Council.

SECTION 11.7. *Execution of Counterparts.* This Fee Agreement may be executed in several counterparts, only one of which shall be an original for Uniform Commercial Code

perfection purposes; provided, however, that any action may be brought upon any counterpart of this Fee Agreement or any counterpart of any document that is attached to this Fee Agreement as an exhibit.

SECTION 11.8. *Law Governing Construction of Agreement.* The laws of the State of South Carolina shall govern the construction of this Fee Agreement.

SECTION 11.9. *Filings.* Whenever the County shall be required to file or produce any reports, notices or other documents during the Fee Term, the Company shall in due time furnish to the County the completed form of such report, notice or other required documents together with a certification by the Company that such document is accurate.

SECTION 11.10. *Headings.* The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

SECTION 11.11. *Further Assurance.* From time to time the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request to effectuate the purposes of this Fee Agreement.

(Signature Page Follows)

IN WITNESS WHEREOF, LEXINGTON COUNTY, SOUTH CAROLINA, and the COMPANY, each pursuant to due authority, have duly executed this Fee Agreement, all as of the date first above written.

LEXINGTON COUNTY, SOUTH CAROLINA

Johnny W. Jeffcoat
Chair of Lexington County Council

ATTEST:

Diana W. Burnett
Clerk, Lexington County Council

UPS WORLDWIDE FORWARDING, INC.,
as Sponsor

Signature: _____
Name: _____
Title: _____

UNITED PARCEL SERVICE, INC. (OHIO),
As Sponsor Affiliate

Signature: _____
Name: _____
Title: _____

BT REALTY II, INC.,
As Sponsor Affiliate

Signature: _____
Name: _____
Title: _____

EXHIBIT A

LEGALLY DESCRIBED PARCELS IN LEXINGTON COUNTY, SOUTH CAROLINA, FOR THE YEAR 2015

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF LEXINGTON, NEAR THE TOWN OF PINE RIDGE, BEING SHOWN AND DELINEATED AS T.M.S. 006787-02-006 ON A PLAT ENTITLED "ALTAIACUM LAND TITLE SURVEY & TOPOGRAPHICAL MAP OF LEXINGTON COUNTY T.M.S. 006787-02-006 & T.M.S. 006787-02-004 PREPARED FOR UNITED PARCEL SERVICE, INC.", PREPARED BY HORD SURVEYORS, LLC, DATED MARCH 23, 2015, SAID PARCEL HAVING THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT A 5/8" REBAR LOCATED AT THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302) AND THE SOUTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952); THENCE PROCEEDING ALONG THE SOUTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952); THENCE PROCEEDING ALONG THE SOUTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952) FOR THE FOLLOWING COURSES AND DISTANCES IN A DIRECTION OF SOUTH 89°18'25" EAST FOR A DISTANCE OF 114.83' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 58°08'17" EAST FOR A DISTANCE OF 400.00' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF SOUTH 60°57'40" EAST FOR A CHORD DISTANCE OF 233.19' (SAID CURVE HAVING A RADIUS OF 3,764.60') TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 61°00'10" EAST FOR A DISTANCE OF 10.20' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING IN A DIRECTION OF SOUTH 69°44'05" WEST ALONG THE WESTERN RIGHT-OF-WAY LINE OF A SOUTHERN RAILWAY RAILROAD FOR A DISTANCE OF 2,076.00' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE PROPERTY OF RICHLAND-LEXINGTON AIRPORT DISTRICT FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF NORTH 07°40'31" WEST FOR A DISTANCE OF 222.43' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 56°09'36" WEST FOR A DISTANCE OF 306.10' TO A 5/8" REBAR; THENCE IN A DIRECTION OF NORTH 28°10'40" WEST FOR A DISTANCE OF 1,091.73' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302) FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF NORTH 70°50'50" EAST FOR A DISTANCE OF 607.24' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF NORTH 84°42'42" EAST FOR A CHORD DISTANCE OF 1,144.43' (SAID CURVE HAVING A RADIUS OF 2,341.00') TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 30°30'24" EAST FOR A DISTANCE OF 6.00' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF NORTH 40°48'09" EAST FOR A CHORD DISTANCE OF 140.11' (SAID CURVE HAVING A RADIUS OF 2,347.00') TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 93.786 ACRES/2,160,000 SQUARE FEET.

T.M.S. 006787-02-004 - DESCRIPTION BASED ON THIS SURVEY:

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF LEXINGTON, NEAR THE TOWN OF PINE RIDGE, BEING SHOWN AND DELINEATED AS T.M.S. 006787-02-004 ON A PLAT ENTITLED "ALTAIACUM LAND TITLE SURVEY & TOPOGRAPHICAL MAP OF LEXINGTON COUNTY T.M.S. 006787-02-006 & T.M.S. 006787-02-004 PREPARED FOR UNITED PARCEL SERVICE, INC.", PREPARED BY HORD SURVEYORS, LLC, DATED MARCH 23, 2015, SAID PARCEL HAVING THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT A 5/8" REBAR LOCATED AT THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302) AND THE NORTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952); THENCE PROCEEDING ALONG A CURVE TO THE LEFT, BEING THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302), IN A DIRECTION OF NORTH 37°52'55" EAST FOR A CHORD DISTANCE OF 207.79' (SAID CURVE HAVING A RADIUS OF 2,026.45') TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE PROPERTY OF RICHLAND-LEXINGTON AIRPORT DISTRICT FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF SOUTH 66°44'32" EAST FOR A DISTANCE OF 525.18' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 07°09'30" EAST FOR A DISTANCE OF 30.21' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 23°46'31" EAST FOR A DISTANCE OF 46.39' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 37°49'19" EAST FOR A DISTANCE OF 50.10' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 10°43'14" EAST FOR A DISTANCE OF 82.33' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF SOUTH 24°15'22" EAST FOR A CHORD DISTANCE OF 175.00' (SAID CURVE HAVING A RADIUS OF 1,331.74') TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 27°42'12" EAST FOR A DISTANCE OF 86.07' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING IN A DIRECTION OF SOUTH 49°41'18" WEST ALONG THE WESTERN RIGHT-OF-WAY LINE OF A SOUTHERN RAILWAY RAILROAD FOR A DISTANCE OF 210.33' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE NORTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952) FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF NORTH 01°02'10" WEST FOR A DISTANCE OF 43.20' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE RIGHT IN A DIRECTION OF NORTH 81°00'12" WEST FOR A CHORD DISTANCE OF 117.88' (SAID CURVE HAVING A RADIUS OF 8,416.07') TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE RIGHT IN A DIRECTION OF NORTH 80°46'51" WEST FOR A CHORD DISTANCE OF 137.31' (SAID CURVE HAVING A RADIUS OF 8,896.60') TO A 5/8" REBAR; THENCE IN A DIRECTION OF NORTH 56°07'51" WEST FOR A DISTANCE OF 486.01' TO A 5/8" REBAR; THENCE IN A DIRECTION OF NORTH 13°33'28" WEST FOR A DISTANCE OF 104.37' TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 7.884 ACRES/347,001 SQUARE FEET.

See Survey attached.

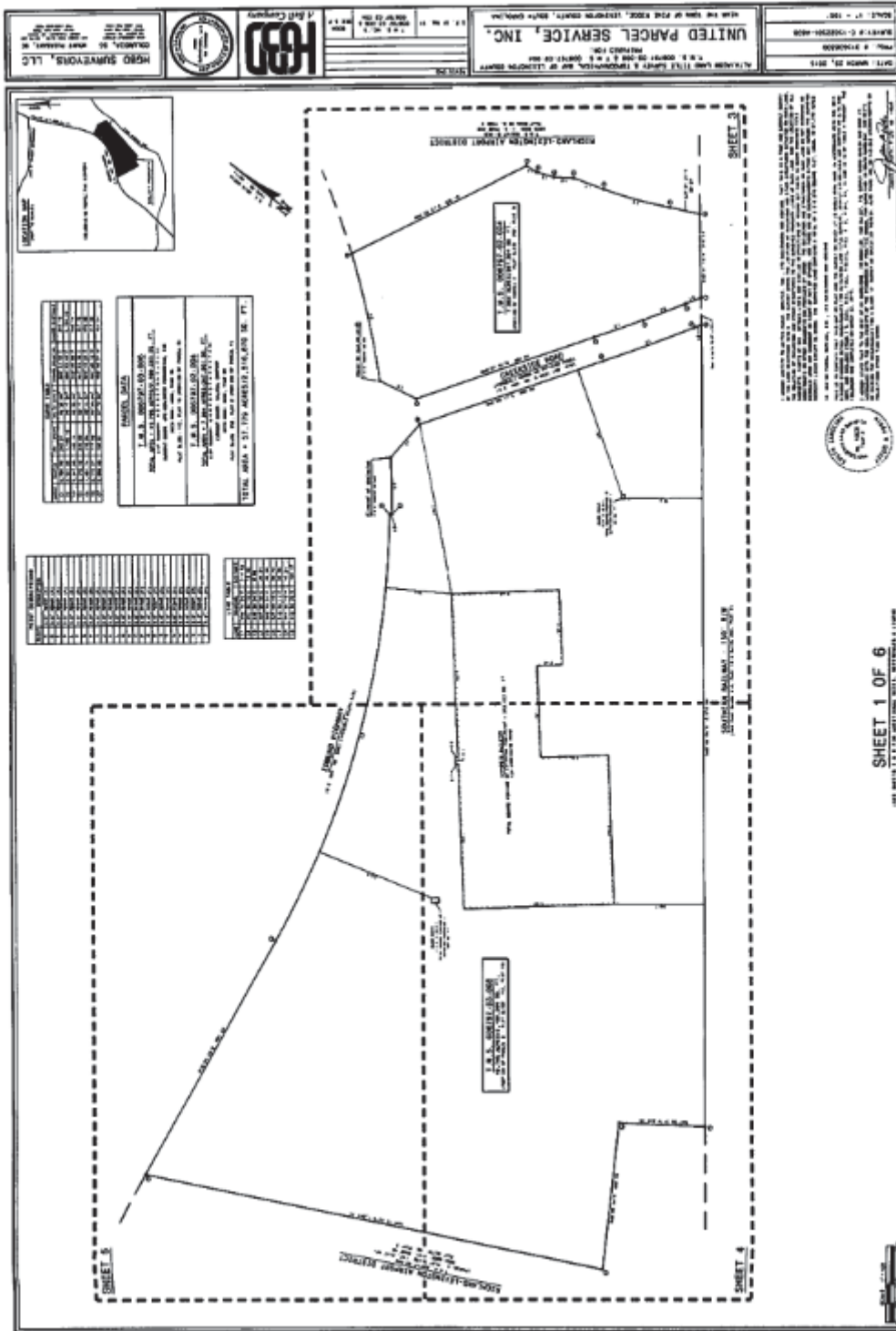
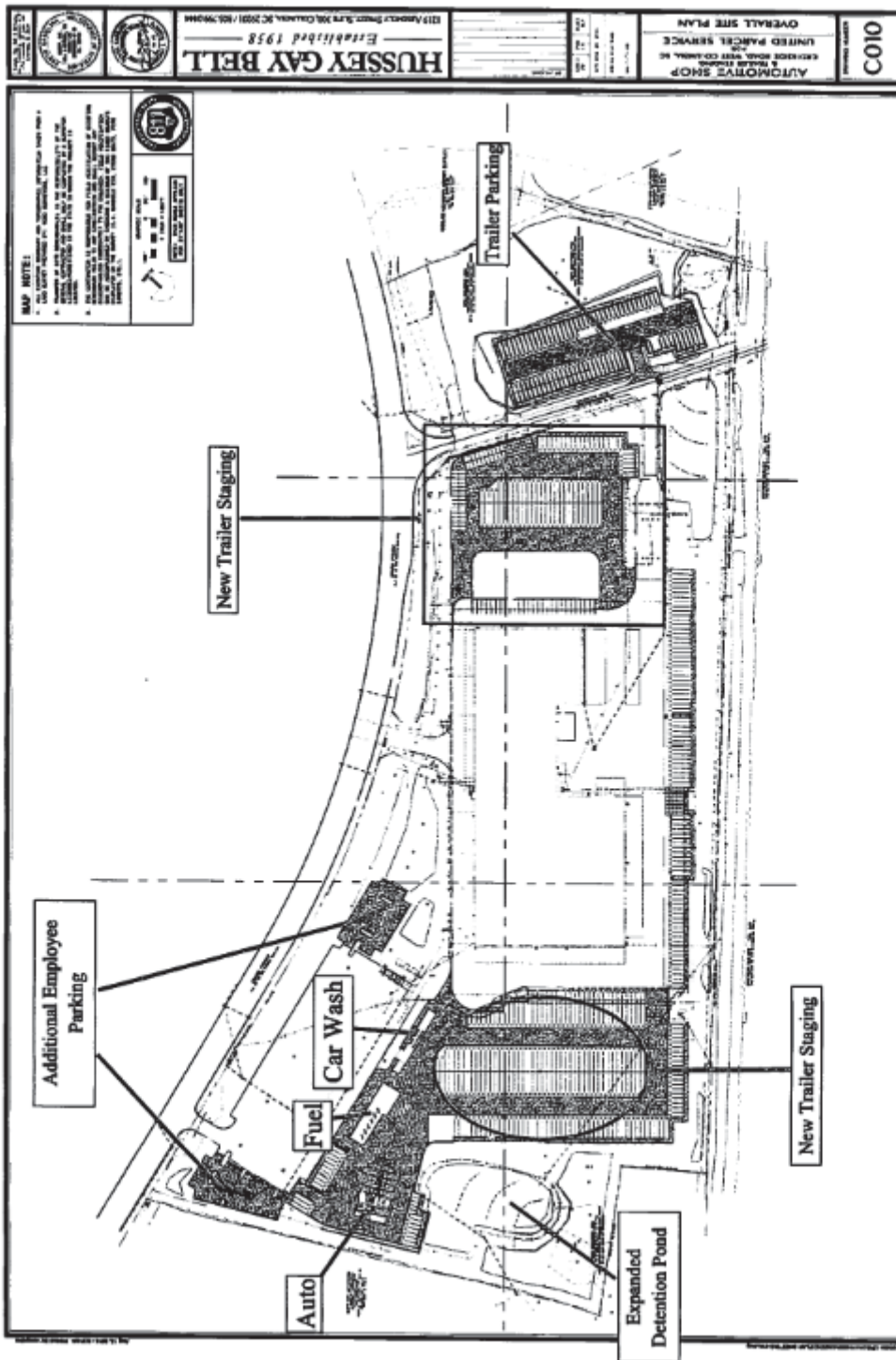


EXHIBIT B



ORDINANCE NO. 15-13_

3. This Ordinance shall be effective after third and final reading thereof.

DONE in meeting duly assembled this ____ day of _____, 2015.

LEXINGTON COUNTY,
SOUTH CAROLINA

By: _____
Name: Johnny W. Jeffcoat
Its: Chairman of County Council

ATTEST:

By: _____
Name: Diana W. Burnett
Its: Clerk to County Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

I, the undersigned, Clerk to County Council of Lexington County, South Carolina (“County Council”) DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct, and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on _____, _____, and _____, 2015. At least one day passed between first and second reading, and at least seven days passed between second and third readings. A public hearing was held on _____, 2015, and notice of the public hearing was published in the _____ newspaper on _____, 2015. At each meeting, a quorum of County Council was present and remained present throughout the meeting.

Attached hereto are excerpts of the minutes of the meetings of the County Council. The County Council complied with the Freedom of Information Act, Chapter 4, Title 30 of the S.C. Code of Laws, 1976, in connection with said meetings of County Council.

The Ordinance is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Lexington County Council, South Carolina, as of this ____ day of _____, 2015.

Diana W. Burnett
Clerk to Lexington County Council
Lexington County, South Carolina

EXHIBIT A
Legal Description
“The United Parcel Service Tract”

LEGALLY DESCRIBED PARCELS OF LAND, LIES WITHIN THE STATE OF

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF LEXINGTON, NEAR THE TOWN OF PINE RIDGE, BEING SHOWN AND DELINEATED AS T.M.S. 006797-02-006 ON A PLAT ENTITLED "ALTA/ACSM LAND TITLE SURVEY & TOPOGRAHICAL MAP OF LEXINGTON COUNTY T.M.S. 006797-02-006 & T.M.S. 006797-02-004 PREPARED FOR UNITED PARCEL SERVICE, INC.", PREPARED BY HORD SURVEYORS, LLC, DATED MARCH 23, 2015, SAID PARCEL HAVING THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT A 5/8" REBAR LOCATED AT THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302) AND THE SOUTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952); THENCE PROCEEDING ALONG THE SOUTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952) FOR THE FOLLOWING COURSES AND DISTANCES IN A DIRECTION OF SOUTH 89°18'25" EAST FOR A DISTANCE OF 114.83' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 58°08'17" EAST FOR A DISTANCE OF 480.00' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF SOUTH 00°05'40" EAST FOR A CHORD DISTANCE OF 223.18' (SAID CURVE HAVING A RADIUS OF 3,765.66') TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 61°08'10" EAST FOR A DISTANCE OF 10.20' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING IN A DIRECTION OF SOUTH 69°44'02" WEST ALONG THE WESTERN RIGHT-OF-WAY LINE OF A SOUTHERN RAILWAY RAILROAD FOR A DISTANCE OF 2,070.00' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE PROPERTY OF RICHLAND-LEXINGTON AIRPORT DISTRICT FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF NORTH 07°50'31" WEST FOR A DISTANCE OF 222.43' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 56°00'56" WEST FOR A DISTANCE OF 206.10' TO A 5/8" REBAR; THENCE IN A DIRECTION OF NORTH 26°10'42" WEST FOR A DISTANCE OF 1,301.73' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302) FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF NORTH 70°50'53" EAST FOR A DISTANCE OF 607.24' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF NORTH 84°42'42" EAST FOR A CHORD DISTANCE OF 1,144.43' (SAID CURVE HAVING A RADIUS OF 2,341.00') TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 39°30'24" EAST FOR A DISTANCE OF 6.00' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF NORTH 48°44'03" EAST FOR A CHORD DISTANCE OF 149.11' (SAID CURVE HAVING A RADIUS OF 2,347.00') TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 93.785 ACRES(2,160,000 SQUARE FEET).

T.M.S. 006797-02-004 - DESCRIPTION BASED ON THIS SURVEY:

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF LEXINGTON, NEAR THE TOWN OF PINE RIDGE, BEING SHOWN AND DELINEATED AS T.M.S. 006797-02-004 ON A PLAT ENTITLED "ALTA/ACSM LAND TITLE SURVEY & TOPOGRAHICAL MAP OF LEXINGTON COUNTY T.M.S. 006797-02-006 & T.M.S. 006797-02-004 PREPARED FOR UNITED PARCEL SERVICE, INC.", PREPARED BY HORD SURVEYORS, LLC, DATED MARCH 23, 2015, SAID PARCEL HAVING THE FOLLOWING METES AND BOUNDS TO WIT:

BEGINNING AT A 5/8" REBAR LOCATED AT THE INTERSECTION OF THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302) AND THE NORTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952); THENCE PROCEEDING ALONG A CURVE TO THE LEFT, BEING THE EASTERN RIGHT-OF-WAY LINE OF EDWARD HIGHWAY (S.C. HWY. NO. 302), IN A DIRECTION OF NORTH 37°52'36" EAST FOR A CHORD DISTANCE OF 357.79' (SAID CURVE HAVING A RADIUS OF 2,306.45') TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE PROPERTY OF RICHLAND-LEXINGTON AIRPORT DISTRICT FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF SOUTH 66°42'27" EAST FOR A DISTANCE OF 535.10' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 07°09'30" EAST FOR A DISTANCE OF 30.21' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 23°46'33" EAST FOR A DISTANCE OF 49.89' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 37°40'19" EAST FOR A DISTANCE OF 30.10' TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 10°30'18" EAST FOR A DISTANCE OF 82.33' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE LEFT IN A DIRECTION OF SOUTH 24°15'22" EAST FOR A CHORD DISTANCE OF 175.00' (SAID CURVE HAVING A RADIUS OF 1,321.74') TO A 5/8" REBAR; THENCE IN A DIRECTION OF SOUTH 27°42'12" EAST FOR A DISTANCE OF 81.07' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING IN A DIRECTION OF SOUTH 49°41'18" WEST ALONG THE WESTERN RIGHT-OF-WAY LINE OF A SOUTHERN RAILWAY RAILROAD FOR A DISTANCE OF 210.33' TO A 5/8" REBAR; THENCE TURNING AND PROCEEDING ALONG THE NORTHERN RIGHT-OF-WAY LINE OF CREEKSIDE ROAD (FORMERLY KNOWN AS PYTHIAN ROAD) (S.C. HWY. NO. 5-952) FOR THE FOLLOWING COURSES AND DISTANCES: IN A DIRECTION OF NORTH 61°02'10" WEST FOR A DISTANCE OF 43.22' TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE RIGHT IN A DIRECTION OF NORTH 61°06'12" WEST FOR A CHORD DISTANCE OF 117.88' (SAID CURVE HAVING A RADIUS OF 8,416.07') TO A 5/8" REBAR; THENCE ALONG A CURVE TO THE RIGHT IN A DIRECTION OF NORTH 88°48'51" WEST FOR A CHORD DISTANCE OF 132.51' (SAID CURVE HAVING A RADIUS OF 8,896.89') TO A 5/8" REBAR; THENCE IN A DIRECTION OF NORTH 58°07'51" WEST FOR A DISTANCE OF 486.01' TO A 5/8" REBAR; THENCE IN A DIRECTION OF NORTH 13°33'38" WEST FOR A DISTANCE OF 104.33' TO A 5/8" REBAR, THIS BEING THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 7.384 ACRES(347,001 SQUARE FEET).

See Survey attached.

